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This is an official publication of the Commonwealth of Kentucky, Legislative Research Commission, giving public notice of all proposed regulations filed by administrative agencies of the Commonwealth pursuant to the authority of Kentucky Revised Statutes Chapter 13.

Persons having an interest in the subject matter of a proposed regulation published herein may request a public hearing or submit comments within 30 days of the date of this issue to the official designated at the end of each proposed regulation.

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Title	Chapter	Regulation
806	KAR 50	: 155
Cabinet Department, Board or Agency	Bureau, Division or Major Function	Specific Area of Regulation

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Public Hearing Scheduled

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

A public hearing will be held at 10 a.m. EST April 7, 1980 in the Auditorium of the Capital Plaza Tower, Mero Street, Frankfort, Kentucky on the following regulations:

- 401 KAR 2:050. Hazardous waste definitions. [6 Ky.R. 473]
- 401 KAR 2:055. Provisions, generally. [6 Ky.R. 476]
- 401 KAR 2:060. Hazardous waste permits. [6 Ky.R. 477]
- 401 KAR 2:065. Inspections, hearings and penalties. [6 Ky.R. 479]
- 401 KAR 2:070. Record keeping, operating standards and reporting procedures. [6 Ky.R. 481]
- 401 KAR 2:075. Identification and listing of hazardous waste. [6 Ky.R. 484]
- 401 KAR 2:080. Fees. [6 Ky.R. 485]

Emergency Regulations Now In Effect

JOHN Y. BROWN, JR., GOVERNOR
Executive Order 80-65
January 24, 1980

EMERGENCY REGULATION Kentucky Department of Agriculture Control of Equine Metritis Disease (CEM)

WHEREAS, the horse industry in Kentucky has been taking measures to control the spread of contagious equine metritis (CEM), a communicable disease among horses spread by contact during the breeding process; and

WHEREAS, a treatment procedure has been found by the State Veterinarian to be effective in preventing the spread of the disease; and

WHEREAS, horses imported into Kentucky need to receive such treatment in order to prevent the further spread of the disease in Kentucky; and

WHEREAS, the importation process has begun and will result in foreign horses entering Kentucky before the end of January, 1980; and

WHEREAS, the breeding season for 1980 will begin before a regulation requiring treatment for contagious equine metritis can be effective through the customary procedure; and

WHEREAS, the State Veterinarian under the authority of the Department of Agriculture and the State Board of Agriculture has determined that an emergency exists and recommended that the Governor declare the attached regulation immediately effective by Executive Order:

NOW, THEREFORE, I, JOHN Y. BROWN, JR., Governor of the Commonwealth of Kentucky, pursuant to the authority vested in me by KRS 13.085(2), do hereby acknowledge the finding of the Department of Agriculture that an emergency exists and direct that the attached regulation shall become effective immediately upon filing in the office of the Legislative Research Commission.

JOHN Y. BROWN, JR., Governor
FRANCES JONES MILLS, Secretary of State

DEVELOPMENT CABINET
Department of Agriculture

302 KAR 20:044E. Treatment of imported horses for CEM.

RELATES TO: KRS Chapter 257
PURSUANT TO: KRS 13.082, Chapter 257
EFFECTIVE: January 25, 1980
EXPIRES: May 24, 1980

NECESSITY AND FUNCTION: To establish a technique for treatment of horses imported into Kentucky from any country outside the continental United States, its territories and possessions for control of contagious equine metritis.

Section 1. As used in this regulation, unless the context clearly requires otherwise:

- (1) "Stallion" means a male horse other than gelding.
- (2) "Breeding" means natural or artificial insemination of a mare.
- (3) "CF test" means a complement-fixation test on equine serum for the detection of specific antibodies of CEM bacterium.
- (4) "Filly" or "mare" means any female horse.

Section 2. Any stallion imported into Kentucky from any country outside the continental United States, its territories and possessions, shall, before being used for breeding, be treated by or under the direct supervision of a veterinarian licensed to practice in Kentucky, according to the following procedure:

- (1) With the stallion in full erection and while wearing disposable gloves and using disposable equipment:
 - (a) Mechanically clean the external genitalia with clean, warm water.
 - (b) Apply a chlorhexidine-containing surgical scrub liberally and, using sufficient water to obtain sudsing, cleanse thoroughly paying particular attention to the urethral fossa/sinus and the folds of the sheath.

(c) Wash with clean warm water and dry.

(d) Apply an ointment containing not less than two-tenths (0.2) percent nitrofurazone liberally, insuring filling of the urethral fossa/sinus and penetration of the folds of the sheath.

(e) Repeat the treatment daily for five (5) consecutive days.

(2) The first two (2) mares bred by a stallion which has been treated as above shall each be cultured from cervix, clitoral fossa and clitoral sinus on the second and fourth day after being covered. Such mares shall also have a CF test performed for CEM on the tenth and fifteenth day after being covered. If all cultures and tests are negative, the treated stallion may be placed in service for breeding.

Section 3. This regulation shall also apply to: (1) Any stallion imported into Kentucky for breeding which has at any time been present in any country outside the continental United States, its territories and possessions, for any purpose other than racing.

(2) Any imported stallion, whether used for breeding or not, which is or will be present on a breeding facility or establishment after entering Kentucky.

Section 4. All fillies and mares of foreign origin, which have not been qualified for cover during the 1979 breeding season shall have two (2) sets of cultures taken from the clitoral fossa, clitoral sinus(es) and cervix before being qualified for cover. One (1) set of such cultures must be obtained in early estrus; the second set may be obtained at the discretion of the attending veterinarian during a period seven (7) to fourteen (14) days either before or after the cultures taken in estrus. It is further recommended that such mares be bred last-in-line and that they be prophylactically scrubbed before being covered.

ALBEN W. BARKLEY, II, Commissioner
ADOPTED: January 23, 1980
APPROVED: LARRY G. TOWNSEND, Secretary
RECEIVED BY LRC: January 25, 1980 at 4 p.m.

JOHN Y. BROWN, JR., GOVERNOR
Executive Order 80-118
February 14, 1980

EMERGENCY REGULATION
Department for Natural Resources
and Environmental Protection

WHEREAS, the problem of uncontrolled hazardous wastes and their disposal creates the serious potential for harm to the Commonwealth of Kentucky and its citizens; and

WHEREAS, the Department for Natural Resources and Environmental Protection has authority to regulate the handling of hazardous wastes and has promulgated interim hazardous waste regulations by emergency declaration which will expire on February 14, 1980; and

WHEREAS, the department has been unable to adopt final, permanent regulations due to the impending release of United States Environmental Protection Agency regulations and possible General Assembly action in the area; and

WHEREAS, the department has revised its interim hazardous waste regulations and requested that the Governor once again declare them immediately effective to insure continuation of this important regulatory activity until a final regulatory program can be developed:

NOW, THEREFORE, I, JOHN Y. BROWN, JR., Governor of the Commonwealth of Kentucky, pursuant to the authority vested in me by KRS 13.085, do hereby acknowledge the finding of the Secretary of the Department for Natural Resources and Environmental Protection that an emergency exists and direct that the attached regulations shall become effective immediately upon being filed with the Legislative Research Commission.

JOHN Y. BROWN, JR., Governor
FRANCES JONES MILLS, Secretary of State

**DEPARTMENT FOR NATURAL RESOURCES
AND ENVIRONMENTAL PROTECTION**
Bureau of Environmental Protection
Division of Hazardous Material and Waste Management

401 KAR 2:051E. Hazardous waste definitions.

RELATES TO: KRS 224.890
PURSUANT TO: KRS 13.082, 224.017, 224.890
EFFECTIVE: February 14, 1980
EXPIRES: June 12, 1980

NECESSITY AND FUNCTION: KRS 224.017 and 224.890 require the Department for Natural Resources and Environmental Protection to adopt rules and regulations for the management for hazardous wastes. This regulation defines essential terms used in connection with the hazardous waste regulations.

Section 1. Definitions. Unless otherwise specifically defined in KRS Chapter 224 or otherwise clearly indicated by their context, terms in KRS Chapter 224 and in the hazardous waste regulations shall have the meanings given in this regulation.

(1) "Active fault" means a land area which, according to the weight of geological evidence, has a reasonable probability of being affected by movement along a fault to the extent that a hazardous waste facility would be damaged and thereby pose a threat to human health and the environment.

(2) "Active portion" means any area of a facility where treatment, storage, recycling or disposal operations are being conducted. It includes the treated area of a landfarm and the active face of a landfill. Covered, closed, or inactive portions of landfills, building roofs, and roads are excluded unless designated as "active portions" by the secretary.

(3) "Aquifer" means any formation of soil, sand, gravel, limestone, sandstone, or other material, or any fracture, crevice, or void in any formation from which underground water is or may be obtained in useable quantities.

(4) "Attenuation" means any decrease in the maximum concentration or total quantity of an applied chemical or biological constituent in a fixed time or distance traveled resulting from a physical, chemical, and/or biological reaction or transformation occurring in the zone of aeration or zone of saturation.

(5) "Cell" means a portion of a landfill which is isolated, usually by means of an approved barrier.

(6) "Container" means any portable enclosure in which a material can be stored, handled, transported, or disposed.

(7) "Contamination" means the degradation of naturally occurring water, air, or soil quality either directly or indirectly as a result of human activities.

(8) "Discharge" means the release of any solid or hazardous waste or any constituent thereof into the environment.

(9) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment, be emitted into the air or be discharged into any water, including groundwaters.

(10) "Erosion" means the detachment and movement of soil or rock fragments by water, wind, ice, or gravity.

(11) "Existing" means any hazardous waste site or facility that was in being or under construction on October 17, 1979.

(12) "Final closure of a hazardous waste facility" means the procedures which must be followed by a facility owner/operator when it is determined that the facility will no longer accept hazardous waste for treatment, recycling, storage, or disposal on the entire facility.

(13) "Final cover" means cover material, soil or other suitable material, that is applied upon closure of a hazardous waste landfill and is permanently exposed to the natural elements.

(14) "Flash point" means the lowest temperature at which evaporation of a substance produces sufficient vapor to form an ignitable mixture with air, near the surface of the liquid. Ignitable mixture denotes a mixture that, when ignited, is capable of the propagation of flame away from the source of ignition. Propagation of flames means the spread of the flame from layer to layer independent of the source of ignition.

(15) "Food chain crops" means a forage or feed grain used to feed animals which are raised for human consumption, used to produce products for human consumption, or also food or tobacco crops for human consumption.

(16) "Generator" means any person, federal agency, or state agency whose act or process produces or accumulates any extremely hazardous waste, any radioactive waste not exempt from these regulations, or hazardous wastes in excess of 1.3 tons annually but does not include retail establishments.

(17) "Generation of hazardous waste" means the act or process by which any person or state or federal agency produces hazardous waste, including hazardous residue from recycling and treatment activities.

(18) "Groundwater" means water which is in the zone of perennial saturation. It is differentiated from water held in the soil, from water in downward motion under the force of gravity in the perennially unsaturated zone, and from water held in chemical or electrostatic bondage. It is synonymous with the term "phreatic water."

(19) "Groundwater table" means the upper boundary of the saturated zone in which the hydrostatic pressure of the groundwater is equal to the atmospheric pressure.

(20) "Hazardous waste" means any waste substance or combination of waste substances in any form which, because of its quantity, concentration, or physical, chemical, or biological characteristics, may create a threat to public health or the environment. A hazardous waste in-

cludes any substance which is toxic, ignitable, corrosive, radioactive, an irritant, a strong sensitizer, or which generates pressure through decomposition, heat or other means.

(a) "Extremely hazardous waste" means any hazardous waste or mixture of hazardous wastes that contains any organic substance which has a calculated human LD₅₀ of less than 50 mg/kg, at a concentration in mg/L greater than or equal to 0.35 times its LD₅₀ expressed in units of mg/kg. For purposes of this definition, metallic salts of organic acids containing three (3) or fewer carbon atoms are considered not to be organic substances.

(b) "Toxic waste" means a hazardous waste which causes adverse effects at a recognized extract concentration level.

(c) "Ignitable waste" means a waste which has any of the following properties:

1. Any liquid waste which has a flash point of less than 140 degrees Fahrenheit.

2. Any waste, excluding liquid waste in subparagraph 1 above and contained gas, that under conditions incident to its management is liable to cause fires through friction, absorption of moisture, spontaneous chemical changes, or retained heat from manufacturing or processing or to create a hazard during its management when ignited;

3. Any ignitable waste compressed gas;

4. Any waste which is a strong oxidizer.

(d) "Corrosive waste" means a waste which is an aqueous solution having a non-buffered pH less than or equal to three (3) or greater than or equal to twelve (12) or a corrosion rate greater than 0.250 inch per year of steel (SAE 1020) at a test temperature of 130 degrees Fahrenheit.

(e) "Radioactive waste" means any waste that exhibits radioactivity above specified levels in 902 KAR 100:080 or 902 KAR 100:085 and is not subject to the Federal Atomic Energy Act of 1954.

(f) "Incompatible waste" means a waste, including non-ignitable waste compressed gases, unsuitable for commingling with another waste or material, where the commingling might result in uncontrolled:

1. Extreme heat or pressure generation;

2. Fire;

3. Explosion or violent reaction;

4. Formation of substances which are shock-sensitive, friction-sensitive, or otherwise have the potential for reacting violently;

5. Formation or generation of toxic dusts, mists, fumes, gases, or other chemicals in such a manner that the likelihood of contamination of groundwater or escape of the substances into the environment is increased; or

6. Formation of any other hazardous waste as defined in this regulation.

(g) "Reactive hazardous waste" means a waste which, of itself, is:

1. Normally unstable and readily undergoes violent chemical change but does not detonate;

2. Capable of detonation or reaction but requires a strong initiating source or which must be heated under confinement before initiation, or which reacts explosively with air, water, or soil; or

3. Readily capable of detonation, explosive decomposition, or reaction at normal temperatures and pressures.

(21) "Hazardous waste district" means a hazardous waste management area identified by the department.

(22) "Hazardous Waste Guidelines" means the departmental publication, filed herein by reference, available

from the Division of Hazardous Material and Waste Management detailing facility criteria and procedures, financial requirements, testing procedures and specific lists of hazardous wastes and waste sources.

(23) "Hazardous waste regulations" means those regulations relating to and pursuant to KRS 224.890.

(24) "Hazardous waste site or facility" means any place at which hazardous waste is treated, stored, recycled, and/or disposed of by landfilling, incineration, or any other approved method.

(a) "Disposal facility" means any facility which disposes of hazardous waste by landfilling in a manner approved by the department.

(b) "On site" means on the same or geographically contiguous property where hazardous waste generation, treatment, storage, recycling, or disposal occurs. Two (2) or more pieces of property which are divided only by a public or private right-of-way and which are otherwise geographically contiguous are considered a single site.

(c) "Off-site" means that the site at which receiving, treatment, storage, recycling, and/or disposal takes place, is separated from another site where generation, shipment, treatment, storage, recycling, and/or disposal takes place by more than the width of a public or private right-of-way.

(d) "Storage facility" means any hazardous waste facility which stores hazardous wastes. A generator who stores his own hazardous wastes in an approved manner for less than ninety (90) days for subsequent transport off-site is not operating or maintaining a storage facility.

(e) "Treatment facility" means any facility which treats hazardous wastes, except one employing only treatment processes other than ponds and lagoons which are connected to a manufacturing process by a pipe or other fixed and enclosed means, except as may be determined by the department not to be a treatment facility.

(f) "Recycling facility" means a facility where hazardous waste is recycled.

(g) "Landfill" means an excavated or engineered area where hazardous waste is deposited and covered according to a plan approved by the department.

(h) "Long-lived hazardous waste disposal site" means any place at which hazardous waste is disposed of by landfilling or burial in such a manner or utilizing such techniques that such wastes so disposed may, in the technical judgment of the department, still constitute an acute threat to public health or the environment should such wastes be exposed to the environment at some time after the close of any period of post-closure care and monitoring funded by the persons or state or federal agency who owned or operated the site during its period of active use.

(25) "Hazardous waste facility personnel" means those agents of the owner/operator who are responsible for performing and/or overseeing operations at a hazardous waste treatment, storage, recycling or disposal facility and whose acts or failures to act may result in a threat to human health or the environment.

(26) "Hazardous waste permit" means the written document issued by the department to the permittee pursuant to KRS 224.890 and the regulations promulgated thereto, for the act of generation, treatment, storage, recycling, or disposal of hazardous wastes. The permit may be for any of the above acts, and may have conditions attached.

(27) "Incineration" means an engineered process using equipment approved by the department that uses controlled flame combustion or other methods to thermally degrade hazardous waste. Incineration is a method of treatment of hazardous waste.

(28) "Landfarming" means application of hazardous waste onto land and incorporation into the surface soil for the purpose of attenuation. Synonyms include land application, land cultivation, land irrigation, land spreading, soil farming, and soil incorporation.

(29) "Leachate" means the liquid that has percolated through or drained from hazardous waste or other man-made materials and contains soluble, partially soluble, or miscible components, removed from such waste.

(30) "Liner" means a layer of natural or man-made material placed beneath or over a surface impoundment or landfill which serves to restrict the movement of the wastes from within the surface impoundment or the landfill into the soil, rock or water outside of the surface impoundment or landfill.

(31) "Manifest" means the principal document used in a management control system to trace the movement of hazardous wastes from generation to final disposal.

(32) "Monitoring" means the acts of systematically inspecting and collecting data on operational parameters or on the quality of the air, soil, groundwater, or surface water.

(33) "Monitoring well" means a well used to obtain water samples for water quality and quantity analysis and groundwater levels.

(34) "New" means any hazardous waste site or facility that commenced construction after October 17, 1979.

(35) "One-hundred year flood" means a flood that has a one (1) percent or one (1) in 100 chance of recurring in any year, or a flood of a magnitude equalled or exceeded once in 100 years on the average over a significantly long period.

(36) "Open burning" means the combustion of any material without:

(a) Control of combustion air to maintain adequate temperature for efficient combustion;

(b) Containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; and

(c) Emission of the combustion products through a stack or vent adequate for both visual monitoring and point-source sampling.

(37) "Owner/operator of a hazardous waste facility" means the owner of an on-site or off-site hazardous waste treatment, storage, recycling or disposal facility, as well as any person with whom rests ultimate decision-making authority over the facility.

(38) "Operational plan" means the approved plan of operations filed with the department which describes the method of operation that the permittee will use in the generation, treatment, storage, recycling, and/or disposal of hazardous wastes.

(39) "Permit by rule" means that certain classes of sites or facilities are presumed to hold a permit so long as the operations of such sites or facilities do not present a threat of imminent hazard to public health or substantial environmental impact.

(40) "Permittee" means any person holding a valid permit issued by the department to generate, treat, store, recycle, and/or dispose of hazardous waste.

(41) "Partial closure of a hazardous waste facility" means the measures which must be taken at a facility when it is determined that the facility will no longer accept hazardous waste for treatment, recycling, storage or disposal on one (1) portion of the site.

(42) "Post closure care" means the manner in which a facility must be maintained when it no longer accepts hazardous waste for treatment, storage, or disposal.

(43) "Representative sample" means any sample of waste or groundwater which is equivalent to the total waste or groundwater in composition, and physical, biological, and chemical properties at an accepted level of confidence.

(44) "Run-off" means that portion of precipitation that flows overland before entering a defined stream channel.

(45) "Saturated zone (zone of saturation)" means that part of the earth's crust containing groundwater in which all voids, large and small, are filled.

(46) "Special wastes" means those wastes of high volume and low hazard which commonly include, but are not necessarily limited to, mining wastes, sludge from pollution control equipment, water treatment facilities, and sewage treatment facilities, cement kiln dust, gas and oil drilling muds, and oil production brines.

(47) "Spill" means any accidental discharge into the environment of any substance which meets the definition of hazardous waste.

(48) "Storage of hazardous waste" means the containment of hazardous waste either on a temporary basis or for a period of years in such a manner as not to constitute disposal of such hazardous waste.

(49) "Storage tank" means any non-portable enclosure used for containing hazardous waste.

(50) "Surface impoundment" means a pit, pond, lagoon, concrete basin or other basin such as open mixing tanks, clarifiers, and settling tanks.

(51) "Transport vehicle" means a motor vehicle, rail freight car, air freight carrier, freight container, cargo tank, portable tank, vessel, pipeline or any other mechanism used for the transportation of hazardous waste.

(52) "Transporter" means a person who moves or causes to be moved by any means any hazardous waste regardless of any change of ownership or dominion over any such waste.

(53) "Unsaturated zone (zone of aeration)" means that region of the soil or rock between the land surface and the nearest saturated zone in which the interstices are occupied partially by air.

(54) "Vapor recovery system" means that equipment, device, or apparatus capable of collecting vapors and gases discharged from a storage tank, and a vapor processing system capable of affecting such vapors and gases so as to prevent their emission into the atmosphere.

(55) "Wetlands" means those areas that are inundated by surface or groundwater with a frequency and duration sufficient to support a prevalence of vegetation or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands include swamps, marshes, bogs, and similar areas, such as sloughs, potholes, wet meadows, river overflows, mud flats, and natural ponds.

(56) "Zone of incorporation" means the depth to which the soil on a landfarm is plowed, tilled, or otherwise designed to receive waste.

JACKIE SWIGART, Secretary

ADOPTED: February 12, 1980

RECEIVED BY LRC: February 14, 1980 at 4:55 p.m.

DEPARTMENT FOR NATURAL RESOURCES
AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Hazardous Material and Waste Management

401 KAR 2:056E. Provisions, generally.

RELATES TO: KRS 224.037, 224.890

PURSUANT TO: KRS 13.082, 224.017, 224.890

EFFECTIVE: February 14, 1980

EXPIRES: June 12, 1980

NECESSITY AND FUNCTION: KRS 224.017 and 224.890 require the Department for Natural Resources and Environmental Protection to adopt rules and regulations for the generation, treatment, storage, recycling and disposal of hazardous wastes. This regulation sets forth general provisions which apply to the hazardous waste regulations with regard to applicability, scope, exceptions, variances, general prohibitions, compatibility, conflicting provisions, and severability.

Section 1. Applicability. The hazardous waste regulations shall apply to the management of all liquid, semisolid, solid, or gaseous waste defined or identified as hazardous in KRS Chapter 224 or the appropriate regulations (401 KAR 2:051E, 401 KAR 2:076E) by all persons and state and federal agencies who engage in the generation, treatment, storage, recycling, or disposal of such wastes, including substances spilled into the environment, thereby meeting the criteria of hazardous waste.

Section 2. Variance. (1) The department may grant a temporary variance from the requirements of the hazardous waste regulations if a hazardous waste is determined by the department to be either:

(a) Insignificant as a potential hazard to public health or the environment because of its small quantity, low concentration, or physical, biological, or chemical characteristics; or

(b) Handled, processed, or disposed of pursuant to regulations of another governmental agency, providing the regulations of other agencies meet the requirements of the hazardous waste regulations.

(2) A request for temporary variance from a requirement of the hazardous waste regulations shall be submitted to the department in a detailed report clearly setting forth the analyses, procedures, controls, and other pertinent data necessary to support the request. The granting of such a request by the department shall be in writing and shall specify appropriate conditions such as duration, limitations, and review procedures.

Section 3. Compatibility with Public Law 94-580. The regulations promulgated pursuant to KRS 224.890 are intended to be compatible with federal regulations adopted pursuant to Public Law 94-580, the "Resource Conservation and Recovery Act of 1976."

Section 4. Conflicting Provisions. The provisions of the hazardous waste regulations are to be construed as being compatible with and complimentary to each other. In the event that any of these regulations are found to be contradictory, the more stringent provisions shall apply.

Section 5. Severability. In the event that any provision of KRS Chapter 224 or any regulation promulgated pur-

suant thereto is found to be invalid, the remaining hazardous waste regulations shall not be affected or diminished thereby.

JACKIE SWIGART, Secretary

ADOPTED: February 12, 1980

RECEIVED BY LRC: February 14, 1980 at 4:55 p.m.

**DEPARTMENT FOR NATURAL RESOURCES
AND ENVIRONMENTAL PROTECTION**
Bureau of Environmental Protection
Division of Hazardous Material and Waste Management

401 KAR 2:061E. Hazardous waste permits.

RELATES TO: KRS 224.033, 224.255, 224.855,
224.860, 224.880, 224.890

PURSUANT TO: KRS 13.082, 224.017, 224.890

EFFECTIVE: February 14, 1980

EXPIRES: June 12, 1980

NECESSITY AND FUNCTION: KRS 224.880 and 224.890 require any person who generates, treats, stores, recycles or disposes of hazardous waste to first obtain a hazardous waste permit from the Department for Natural Resources and Environmental Protection.

Section 1. Generators Determination of Hazard and Registration.

(1) No person or state or federal agency shall engage in the generation of waste without having made a determination, based upon examination of the definitions, characteristics, and determination guidelines, that the waste is hazardous or non-hazardous; and

(2) If the waste appears to be hazardous, the generator shall register his intent to apply for a hazardous waste permit with the department. Such registration shall be filed within ninety (90) days after the effective date of the hazardous waste regulations and shall include:

(a) Known or anticipated types, potential sources, general characteristics, and weights or volumes of hazardous wastes generated annually; and

(b) The place of generation and the name and address of a contact agent.

(3) If an existing hazardous waste site or facility engages in the treatment, storage, recycling, or disposal of hazardous wastes, the owner/operator shall register his intent to apply for a hazardous waste permit with the department. Such registration shall be filed within ninety (90) days after the effective date of the hazardous waste regulations and shall include:

(a) Known or anticipated types, potential sources, general characteristics, and weights or volumes of hazardous or special wastes generated, received, or handled annually;

(b) Information on the name, mailing address, legal structure, and ownership of the site or facility;

(c) Site information which details the location, watershed, area, and other attributes;

(d) Geologic and soils information;

(e) Hydrologic information;

(f) Land use and population information; and

(g) Description of the operation.

(4) If, during the review of the registration information submitted pursuant to this subsection, the department determines that there is a threat of imminent hazard to public health or substantial environmental impact, the existing hazardous waste site or facility may be required to fully comply with the requirements of Sections 2 and 3.

(5) If the waste is a special waste, generators shall, either individually or collectively as a categorical group, within ninety (90) days after the effective date of these regulations file a report, according to procedures previously approved by the department, which details, by geographic area, the known or anticipated types, potential sources, general characteristics, and weights or volumes of special wastes generated annually.

Section 2. Permit Required. (1) No person or state or federal agency shall engage in the treatment, storage, recycling, or disposal of hazardous waste at a new hazardous waste site or facility without having first obtained a permit or a temporary variance from the department or, in the case of generators or existing hazardous waste sites or facilities, having registered with the department.

(2) A permit shall authorize the permittee to engage in the generation, treatment, storage, recycling or disposal of hazardous waste in a manner prescribed by the department for a period of one (1) year from the date of issuance.

(3) All existing authorizations or letters of permission to dispose of hazardous waste issued by the department shall become null and void ninety (90) days after the effective date of the hazardous waste regulations.

(4) Generators and existing hazardous waste sites or facilities, not registered with the department or holding a temporary variance, shall apply for a hazardous waste permit within ninety (90) days after the effective date of these regulations.

(5) No new hazardous waste site or facility shall commence construction without having first obtained a permit.

(6) Special waste sites or facilities are hereby granted a permit by rule. However, if the operation of a site or facility would cause a threat of imminent hazard to public health or substantial environmental impact, the site or facility may be required to fully comply with the requirements of Section 3.

(7) The permit shall confer upon the owner/operator a qualified right to generate, treat, store, recycle, or dispose of hazardous waste, but shall not relieve the owner/operator of responsibility to comply with all applicable federal, state, and local laws and regulations.

Section 3. Application for a Hazardous Waste Permit. A person or state or federal agency desiring a hazardous waste permit shall submit to the department:

(1) A complete application on a form provided by the department.

(2) An operational plan addressing:

(a) Known or anticipated types, potential sources, general characteristics and weights or volumes of hazardous wastes generated, received or handled annually.

(b) The designated capacity and expected life of equipment to be used and/or site to be used by the permittee.

(c) A list of operating equipment which the facility will utilize to comply with these regulations.

(d) A general description of the operational procedures to be conducted including procedures that will ensure compliance with KRS Chapter 224, and that will protect public health and the environment.

(e) A general description of procedures for shipping, receiving and identifying hazardous wastes; for deployment of qualified personnel; and for supervision of handling and disposing of hazardous waste.

(f) A description of procedures planned for final or partial closure of any hazardous waste disposal site.

(g) Closure and post-closure monitoring and maintenance cost estimates.

(h) A description of security measures to keep unauthorized persons from entering the site and to prevent unpermitted use.

(3) A contingency plan addressing:

(a) Actions that will be taken in the event of fire, explosion, accidental discharge, or other accident;

(b) The equipment and manpower available to correct effects of an accident or accidental discharge; and

(c) Emergency procedures for evacuating employees and notifying agencies responsible for providing services during emergencies.

(4) Physical information on the proposed site or facility consisting of, but not limited to:

(a) A map drawn to an appropriate scale showing the following:

1. Existing topographical contours of the property;

2. Proposed final elevations of any completed disposal site;

3. Legal boundaries for which clear title or lease is held by the person desiring the permit;

4. Locations of permanent access and permanent internal roads;

5. Location and type of fencing;

6. Locations of waste generation, loading facilities, unloading facilities, storage facilities, equipment cleaning areas and disposal areas;

7. Locations and descriptions of environmental monitoring stations;

8. Locations of structures, equipment or facilities for control of surface or subsurface drainage, leachate or land-fill gases; and

9. Locations of power lines, pipelines, and easements through the hazardous waste site or facility.

(b) A geological report of the site including but not limited to:

1. A description of all soils at the site in detail identifying the suitability for the proposed use;

2. A description of the surface and subsurface geology of the site, including an assessment of such geological hazards as: seismic activity, subsidence, or stability;

3. A description of the hydrologic characteristics of the site, including surface and ground water current use, potential use, and flow.

(c) All land uses and zoning contiguous with the location of hazardous waste generation and within one quarter ($\frac{1}{4}$) mile of the perimeter of hazardous waste treatment, storage, recycling, or disposal facilities.

(5) A statement of zoning approval for the hazardous waste treatment, storage, recycling, or disposal facility signed by the appropriate authority.

(6) A verified affidavit from the publishing newspaper certifying the time, place, and content of the applicant's advertisement in accordance with KRS 224.855, for a hazardous waste treatment, storage, recycling, or disposal facility.

(7) Proof of financial responsibility and plan for meeting any bonding requirements required by KRS 224.890 and by Section 4.

Section 4. Closing Trust Fund; Post-Closure Trust Fund; Financial Responsibility. Prior to issuance of a hazardous waste permit, the applicant shall establish a trust fund for the amount of the estimated closure cost; establish a trust fund for post-closure monitoring and maintenance which is to be built up over the life of the site or over twenty (20) years, whichever is shorter; and provide evidence to the department of the necessary financial responsibility for injuries to persons or property sustained as a result of an escape or release of hazardous waste.

(1) For each facility, before a permit can be issued, the applicant shall deposit into a closure trust fund as a condition of receiving a permit a cash deposit satisfactory to the department equal to the cost estimate for closure. An acceptable method for determination of this amount is found in the "Hazardous Waste Guidelines," financial requirements.

(2) For each facility, before a permit can be issued, the applicant shall establish a post-closure trust fund. The annual cost of post-closure monitoring and routine maintenance will be determined by the department based on cost estimates provided by the applicant and other sources. The annual post-closure monitoring and maintenance cost will be paid into the post-closure trust fund, at a rate determined in "Hazardous Waste Guidelines," financial requirements, or at some other rate satisfactory to the department which will ensure the availability of the necessary funds for monitoring and maintenance after the facility has closed.

(3) For each facility, before a permit shall be issued, the applicant must show evidence of financial responsibility, in an amount and for a time period specified by the department.

(4) In the case of generation permits, a bond shall be required in an amount specified by the department. The bond shall be sufficient to provide for the cleanup of spills of hazardous waste at the generating facility or during transport, based on the character, quantity, and routing of the waste. In a particular instance where the circumstances are such as to warrant an exception to this provision, the department may accept other evidence of financial responsibility for spill cleanup.

Section 5. Issuance of Hazardous Waste Permit. (1) After receiving a permit application, operational plan, contingency plan, site information, and proof of financial responsibility, the department shall determine whether this proposed facility is a long-lived hazardous waste disposal site, and if not, the department shall issue a hazardous waste permit, specify modifications that must be made as a prerequisite for issuance of a permit, or deny the permit. If the proposed facility is determined to be a long-lived hazardous waste disposal site, the requirements of KRS 224.855(5) and (6) must be met.

(2) The department may issue a hazardous waste permit upon finding that the person or state or federal agency desiring the permit has met all the requirements for application and has the ability to meet the operational requirements of the hazardous waste regulations. Past performance in related areas will be considered in the review and in the determination of any requirement for specialized permit conditions. An application for a permit may be denied or an active permit revoked for failure to comply with applicable state statutes or regulations, including but not limited to any failure to provide or maintain adequate financial responsibility.

(3) The department shall act on the permit application within ninety (90) days of receipt or shall, within that time period, inform the applicant of a projected schedule for review.

Section 6. Termination and Renewal of Hazardous Waste Permit. (1) A hazardous waste permit shall automatically terminate at the end of one (1) year. A shorter period may be specified.

(2) A hazardous waste permit may be renewed. Renewal requests shall be made to the division not less than ninety (90) days prior to the permit expiration date.

(3) The department, in issuing a renewal, shall consider:

(a) Whether all conditions of the expiring permit are being met;

(b) Whether any necessary modification of the original permit conditions is being met;

(c) New or updated information required by the department that is necessary for re-evaluating the permit's suitability for re-issuance; and

(d) All information considered in issuance of the original permit.

(4) Approval of any compliance schedule for meeting permit conditions or necessary changes in permit conditions does not constitute a waiver of the department's right to initiate enforcement action for a permittee's non-compliance with KRS Chapter 224 and the hazardous waste regulations.

Section 7. Conditions of Hazardous Waste Permit. (1) The owner/operator shall comply with the requirements of all applicable state laws and regulations as well as any special conditions imposed by the department.

(2) The department may issue a permit subject to special conditions which include but are not limited to:

(a) Types of hazardous wastes which may be accepted or disposed;

(b) Special operating conditions;

(c) Schedules of compliance for corrective actions;

(d) Procedures, conditions, and changes necessary to comply with the requirements of the hazardous waste regulations and of KRS Chapter 224; or

(e) The issuance of any other applicable departmental permits.

(3) The owner/operator shall handle a waste as a hazardous waste if the manifest indicates that the waste is hazardous.

Section 8. Display of Hazardous Waste Permit. The hazardous waste permit or notice of temporary variance shall be conspicuously displayed at the hazardous waste facility. In the case of generators, the permit or acknowledgement of registration in accordance with Section 1 shall be displayed at the generator's place of business.

Section 9. Prohibition of Use of Unpermitted Facility. Ninety (90) days after the effective date of the hazardous waste regulations, no person shall deliver hazardous waste to a facility for treatment, storage, recycling, or disposal unless the owner/operator has:

(1) Applied to the department for a hazardous waste permit for a facility in operation at the effective date of the hazardous waste regulations, or

(2) Been granted a hazardous waste permit by the department.

Section 10. Modification of Hazardous Waste Permit to Include New Conditions. The department may at any time modify a permit issued pursuant to these regulations to include new conditions required to comply with the requirements of the hazardous waste regulations, KRS Chapter 224, or any other applicable state statutes or regulations. The modification may include a time schedule for implementing the new conditions.

Section 11. Modification of Processing Methods or Proposed Closure by Owner/Operator. (1) The owner/operator shall notify the department in writing of any facility closing anticipated to last one (1) year or longer, or of any proposed significant change of processing, disposal, or method of operation from that described in the operation plan thirty (30) or more days before the proposed date of the closing or change.

(2) The owner/operator shall not proceed with the closing or change without written approval of the department.

(3) The department shall respond to the owner/operator within thirty (30) days of the receipt of the notice of proposed closing or change.

Section 12. Change of Owner/Operator. Hazardous waste permits are non-transferable absent written approval by the department. Any proposed new owner/operator may be required to submit an application as described in this regulation.

JACKIE SWIGART, Secretary

ADOPTED: February 12, 1980

RECEIVED BY LRC: February 14, 1980 at 4:55 p.m.

**DEPARTMENT FOR NATURAL RESOURCES
AND ENVIRONMENTAL PROTECTION**
Bureau of Environmental Protection
Division of Hazardous Material and Waste Management

401 KAR 2:066E. Inspections, hearings and penalties.

RELATES TO: KRS 224.032, 224.033, 224.071,
224.081, 224.083, 224.890, 224.996

PURSUANT TO: KRS 13.082, 224.017, 224.890

EFFECTIVE: February 14, 1980

EXPIRES: June 12, 1980

NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to inspect any property or premises for the purpose of investigating either actual or suspected sources of pollution or contamination or for the purpose of ascertaining compliance or noncompliance with KRS Chapter 224 or the regulations promulgated pursuant thereto. KRS 224.996 permits the Department for Natural Resources and Environmental Protection to assess civil and criminal penalties against any person who fails to perform any duties imposed by KRS Chapter 224, the regulations promulgated pursuant to KRS Chapter 224, or any determination or order of the department.

Section 1. Enforcement. The requirements of this regulation shall be enforced by the secretary or any duly authorized representative of the department.

Section 2. Inspections. (1) The secretary or any duly authorized representative of the department upon presentation of proper identification and authority may:

(a) Enter any premises permitted to generate hazardous waste or any permitted hazardous waste facility, inspect the premises, and gather evidence on existing conditions and procedures;

(b) Obtain from any permittee, or from any permitted premises, representative samples of waste;

(c) Conduct tests, analyses and evaluations to determine whether the requirements of the hazardous waste regulations and KRS Chapter 224 are being met;

(d) Obtain samples of any containers and photographs or facsimiles of container labels;

(e) Inspect and copy any pertinent records, reports, information or test results relating to the requirements of this regulation; and

(f) Enter and inspect any other premises in accordance with the requirements of KRS 224.033(10).

(2) A report listing any deficiencies found during the inspection shall be prepared by the inspector and shall be kept on file in the department. A copy of the report shall be provided to the owner/operator or his agent upon completion of the inspection.

Section 3. Deficiencies. (1) The department shall notify the owner/operator of any noncompliance with the requirements of these regulations, with guidelines adopted pursuant thereto, or with conditions of the permit.

(2) The owner/operator shall submit to the department a plan of correction to be implemented within a time acceptable to the department.

(3) If the owner/operator fails to accomplish an agreed upon step in the plan of correction within the time period specified, the secretary may take action to modify, suspend, discontinue, or revoke the owner/operator's permit(s).

Section 4. Modification, Suspension and Revocation of a Permit. The department may modify, suspend or revoke a permit issued pursuant to this regulation for: (1) Violation of any requirement of KRS Chapter 224 or the respective regulations promulgated pursuant thereto.

(2) Aiding, abetting or permitting the violation of any provisions of these regulations.

(3) Any action or omission associated with maintenance and operation of the facility that could create a threat to public health or the environment.

(4) Violations of a condition or a variance of the hazardous waste permit.

(5) Misrepresentation or omission of a significant fact by the operator either in the application for the permit or in information subsequently reported to the department.

(6) Failure to comply with an order issued by the department.

Section 5. Hearings. (1) Except for special hearings pursuant to KRS 224.071, any person or state or federal agency aggrieved by the actions of the department may by written notice request that a hearing be conducted by the department. The right to demand such a hearing shall be limited to a period of thirty (30) days after the applicant has had actual notice of the action, or could reasonably have had such notice. Unless the request is frivolous, the department shall schedule a hearing before the department not less than twenty-one (21) days after notice of demand for such a hearing, unless the person complained against

waives in writing the twenty-one (21) day period. The notice of hearing shall include a statement of the time, place, and nature of the hearing; the legal authority for the hearing; reference to the statutes and regulations involved; and a short statement of the reason for the granting of the hearing.

(2) Prior to the formal hearing, and upon seven (7) days written notice to all parties, delivered personally or by certified mail with return receipt requested, the hearing officer may hold a pre-hearing conference to consider simplification of the issues, admissions of fact and documents which will avoid unnecessary proof, limitations of the number of witnesses and such other matters as will aid in the disposition of the matter. Disposition of the matter may be made at the pre-hearing conference by stipulation, agreed settlement, consent order, or default for non-appearance.

(3) Administrative hearing procedure:

(a) Any party to a hearing may be represented by counsel, may make oral or written argument, offer testimony, cross-examine witnesses, or take any combination of such actions. A hearing officer shall preside at the hearing in accordance with reasonable administrative practice.

(b) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. When necessary to ascertain facts not reasonably susceptible of proof under judicial rules of evidence, evidence not admissible thereunder may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. Hearing officers shall give effect to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form. Documentary evidence may be received in the form of copies or excerpts if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original. A party may conduct cross-examinations required for a full and true disclosure of the facts. Notice may be taken of generally recognized technical or scientific facts within the department's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data and they shall be afforded an opportunity to contest the material so noticed. The department's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.

(c) It will be within the hearing officer's discretion to require official transcripts or to set up other procedures of taking evidence, including but not limited to the use of mechanical recording devices for recording the testimony. The record of such hearing, consisting of all pleadings, motions, rulings, documentary and physical evidence received or considered, a statement of matters officially noticed, questions and offers of proof, objections and rulings thereon, proposed findings and recommended order, and legal briefs, shall be open to public inspection and copies thereof shall be made available to any person upon completion of the hearing process upon payment of the actual cost of reproducing the original except as provided in KRS 224.035. The department may cause the mechanical recording of the testimony to be transcribed. When certified as a true and correct copy of the testimony by the hearing officer, the transcript shall constitute the official transcript of the evidence.

(d) The hearing officer shall within thirty (30) days of the closing of the hearing record, make a report and a recommended order to the secretary. The order shall contain the appropriate findings of fact and conclusions of law. If the secretary finds upon written request of the hearing officer that additional time is needed, then the secretary may grant a reasonable extension. The hearing officer shall serve a copy of his report and recommended order upon all parties. The parties may file within seven (7) days of service of the hearing officer's report and recommended order exceptions to the recommended order. The secretary shall consider the report and recommended order and exceptions. The secretary may remand to the hearing officer the matter for further deliberation, adopt the opinion of the hearing officer and the department or issue his own written order based on the report and recommended order.

(e) After completion of the hearing and filing of exceptions, the department shall notify the applicant in writing, certified mail with return receipt requested, of the final decision of the department. If any extension of time is granted by the secretary for a hearing officer to complete his report, the department shall notify all parties at the time of the granting of the extension.

(f) The secretary shall not grant extensions of time to the hearing officer for more than thirty (30) days for any one (1) extension, and no more than two (2) such extensions shall be granted.

(g) A final order of the department shall be based on substantial evidence appearing in the record as a whole and shall set forth the decision of the department and the facts and law upon which the decision is based.

(h) There shall be no ex-parte communications between a hearing officer and parties to the action.

(i) Any person aggrieved by a final order of the department may have recourse to the courts as set forth in KRS 224.085.

Section 6. Order for Discontinuance, Abatement, or Alleviation. The secretary may, when he finds after investigation that it would be prejudicial to the interests of the people of the state to delay action, issue an order for discontinuance, abatement, or alleviation of a condition or activity without prior hearing as provided in KRS 224.071.

Section 7. Discontinuance of a Permit. (1) The secretary may order the discontinuance of a permit prior to any hearing when he determines such action is necessary to protect public health and safety and the environment from imminent danger.

(2) The secretary, or his authorized designee, shall notify the owner/operator of the hazardous waste facility of the discontinuance and the effective date thereof and, at the same time, shall provide the owner/operator with an explanation of the basis of the discontinuance.

(3) The owner/operator shall take prompt action to correct the deficiencies cited by the department.

(4) The suspension shall remain in effect until the deficiencies are corrected to the satisfaction of the department or until the department makes a final determination based on the outcome of a hearing held in accordance with the requirements of KRS 224.071. The determination may result in termination of the order, suspension, or modification of the permit, or revocation of the permit.

Section 8. Petition for Reinstatement. An owner/operator whose permit has been suspended or

revoked may petition the department for reinstatement after thirty (30) days or more have elapsed from the effective date of the suspension or revocation or from the date of the denial of a similar petition and after the conditions of Section 7(4) have been met.

Section 9. Penalties. Any person or state or federal agency who violates any of the applicable provisions of KRS 224.890 or who violates any determination, order, or regulation adopted pursuant thereto, shall be subject to civil penalties as set forth in KRS 224.996(5).

JACKIE SWIGART, Secretary

ADOPTED: February 12, 1980

RECEIVED BY LRC: February 14, 1980 at 4:55 p.m.

**DEPARTMENT FOR NATURAL RESOURCES
AND ENVIRONMENTAL PROTECTION**

Bureau of Environmental Protection

Division of Hazardous Material and Waste Management

401 KAR 2:071E. Record keeping, operating standards and reporting procedures.

RELATES TO: KRS 224.071, 224.255, 224.890

PURSUANT TO: KRS 13.082, 224.017, 224.033, 224.890

EFFECTIVE: February 14, 1980

EXPIRES: June 12, 1980

NECESSITY AND FUNCTION: KRS 224.890 requires the Department for Natural Resources and Environmental Protection to promulgate regulations to establish reporting procedures, record keeping procedures and operating standards, for the generation, storage, treatment, recycling and disposal of hazardous wastes.

Section 1. Manifest. (1) A manifest in a format approved by the department shall be utilized for recording information on all liquid, solid, semi-solid or gaseous hazardous wastes transported to hazardous waste handling facilities, storage facilities, treatment facilities, recycling facilities, transfer stations or disposal sites. A manifest is not required for the transport of special waste.

(2) All applicable sections of each manifest shall be accurately, completely, and legibly filled out.

(3) The manifest shall be carried by any person who transports hazardous waste on a public road, railroad, water or by any other means.

(4) The use of the manifest shall be required upon notification by the department.

Section 2. Manifest and Other Procedures for Generators. (1) The generator of any hazardous waste to be disposed of off-site shall complete and sign the generator of waste section of the manifest, and label and placard each shipment.

(2) The generator shall describe the wastes accurately. This description shall include the type of waste, chemical composition, special handling instructions and any other information deemed necessary by the department.

(3) The generator shall indicate on the manifest whether the waste is hazardous or extremely hazardous as delineated in 401 KAR 2:076E.

(4) Before any shipment of hazardous waste is transported on a public road, the generator shall write the proper shipping name on the manifest as required by the Kentucky Department of Transportation in 601 KAR 1:005.

(5) Before any shipment of extremely hazardous waste is transported on a public road, the generator, in addition to completing the manifest as required by this regulation, shall inform the department by a previously agreed upon procedure, such as outlined in "Hazardous Waste Guidelines," records and procedures.

(6) The generator shall have retained the waste generator's copy of the completed manifest prior to removal of the waste from the generator's facility.

(7) The generator shall provide that the manifest, with the generator and transporter sections completed, accompany hazardous waste during transport and be delivered to the hazardous waste site or facility with the waste.

(8) With the manifest sections properly completed, the generator shall submit to the hazardous waste transporter an original and copies of the manifest for shipment of hazardous waste.

(9) The generator of hazardous waste shall submit to the department each week, or on such other schedule as approved by the department, a summary or a legible copy of each manifest or both issued during the previous week or designated time period, including manifests for shipments to be delivered out of the state.

Section 3. Manifest Procedures for Owner/Operator of Treatment, Storage, Recycling, or Disposal Facility. (1) The owner/operator of an off-site hazardous waste facility shall ensure that hazardous waste delivered to the receiving facility has essentially the same general properties and quantities as identified by the generator on the manifest, except in the case of an on-site facility operated solely for and by a generator.

(2) The owner/operator of a hazardous waste facility shall require that the generator and transporter sections of the manifest be completed before the hazardous waste shall be accepted.

(3) The off-site hazardous waste facility owner/operator shall complete the applicable section of the manifest, retain a copy, and send the completed original to generator of the hazardous waste.

(4) The owner/operator shall send legible copies of all completed hazardous waste manifests or other reports to the department on a current weekly basis, or on such other schedule as approved by the department, including manifests for shipments received from out of state.

Section 4. Personnel Requirements for Facility Operation. (1) The owner/operator of a hazardous waste facility shall maintain such personnel at the facility as are necessary to provide effective and timely action with regard to facility operations, maintenance, environmental controls, records, emergencies, and health or safety.

(2) The owner/operator shall provide at the facility at least one (1) qualified person who is capable of conducting field tests of wastes for, at a minimum, pH and flammability at the time hazardous waste is accepted.

(3) The owner/operator of a hazardous waste facility shall provide adequate supervision to ensure that the operation of the facility and other activities carried out on the premises are in compliance with all applicable laws, regulations, permit conditions and other requirements.

The owner/operator shall keep the department, local fire officials, and State Fire Marshal currently advised of the names, addresses, and telephone numbers, including emergency telephone numbers, of the owner/operator, manager, and supervisor.

Section 5. Equipment Requirements for Owner/Operator. (1) Hazardous waste facilities shall be designed, equipped and operated to prevent discharge of hazardous wastes outside of areas designated in the operational plan, and to prevent hazards to public health and the environment.

(2) Equipment used to handle, treat, store or dispose of hazardous waste shall be designed to avoid an uncontrolled reaction, fire, explosion, or discharge of hazardous waste.

(3) If an on-site water supply is used for controlling dust and fires, cleaning equipment or other purposes, and does not meet all health standards for drinking water, all faucets or taps shall be clearly labeled: "Polluted—Not Safe For Human Use."

(4) If a public water supply is used at the facility, the service connection shall be protected from contamination as specified by the department in 401 KAR 6:015, pertaining to public water supply requirements.

(5) The owner/operator shall provide or otherwise require special equipment such as lifts, ramps, and lines to remove containerized hazardous waste from vehicles and containers, if necessary to prevent hazards to public health and the environment.

(6) Hazardous waste facilities shall not be open to public except by permission of the department. Access roads leading to areas where hazardous wastes are handled, treated, recycled, stored, or disposed shall be clearly marked with notices that are legible from a distance of at least twenty-five (25) feet, and warn of the presence of hazardous wastes. Signs or traffic controllers shall be strategically located to prevent the public from being exposed to hazardous wastes.

Section 6. General Operating Standards for Facilities.

(1) The owner/operator of a hazardous waste facility shall operate the facility in accordance with the requirements of KRS Chapter 224, and the regulations promulgated pursuant thereto, the conditions of the hazardous waste facility permit issued by the department, and the operational plan filed with the department.

(2) Hazardous waste shall be handled, treated, recycled, stored, or disposed of only within the hazardous waste area designated in the operational plan filed with the department unless otherwise specified.

(3) The owner/operator shall ensure that methods used to handle, treat, store, recycle or dispose of hazardous waste at the hazardous waste facility are designed to avoid:

(a) Discharge of hazardous waste outside the designated hazardous waste area;

(b) Movement of hazardous waste to an area outside the hazardous waste area;

(c) Exposure or contamination of a person by hazardous waste; and

(d) Creating a hazard to public health or the environment.

(4) To prevent hazardous waste from being blown by wind, hazardous waste in the form of powder, dust, or a fine solid should be handled, treated, stored and disposed of in covered containers or, if the waste is not water reactive, shall be wetted sufficiently to eliminate airborne dispersal in conformance with other permit requirements.

(5) Hazardous wastes that are capable of releasing hazardous gases, mists or vapors in excess of existing air quality standards or where the emitted hazardous wastes could result in a hazard to public health or the environment shall not be deposited in open pits, ponds, lagoons, storage or disposal areas or containers.

(6) Containers holding hazardous wastes shall not be opened, handled, emptied or disposed of in a manner which may rupture the containers or cause them to leak, unless the precautions taken preclude fires, contamination of persons by hazardous waste, discharge of hazardous waste outside the hazardous waste area or movement of hazardous waste to an area outside the hazardous waste area.

(7) Unless decontaminated in a manner approved by the department, empty containers contaminated with hazardous materials shall be stored, handled, processed and disposed as hazardous wastes in compliance with hazardous waste regulations.

(8) The owner/operator of a hazardous waste facility shall expedite collection of hazardous waste that is accidentally discharged from designated storage, processing or disposal areas. The owner/operator shall also collect soil contaminated by such discharge. The owner/operator shall handle and dispose of such waste and soil as hazardous wastes in compliance with these regulations and the approved operational plan.

(9) The hazardous waste facility shall be operated in such a manner as to minimize the chance of fire and explosions and with adequate provisions for prompt fire control.

(10) The owner/operator shall make provisions to prevent personnel from wearing clothing that is contaminated with hazardous waste and provide adequate decontamination facilities.

(11) Equipment used at hazardous waste facilities, including but not limited to storage containers, processing equipment, trucks, loaders, dozers, and scrapers, that are contaminated with hazardous waste shall be decontaminated prior to being serviced or used in an area not used for hazardous waste. Contaminated wash water, waste solutions or residues generated from washing or decontaminating the equipment shall be collected and disposed of as hazardous wastes in compliance with these regulations.

(12) Salvaging of hazardous waste shall be permitted only as described in the operational plan, provided that salvaging does not create nuisances or hazards to public health or safety or the environment.

Section 7. Additional Standards for Storage of Hazardous Waste. (1) No person or state or federal agency shall store a hazardous waste without written permission from the department.

(2) Any person who stores a hazardous waste longer than ninety (90) days shall have obtained a permit or temporary variance for storage from the department.

(3) The department may require that hazardous waste stored longer than ninety (90) days be removed and disposed of in a manner acceptable to the department.

(4) Hazardous waste in storage for less than ninety (90) days shall be removed and disposed of in a manner acceptable to the department if so ordered by the secretary pursuant to KRS 224.071.

(5) Storage of water-reactive or water-soluble hazardous wastes as identified by the department shall be in a rain-tight and waterproof area.

(6) Containers used for storing hazardous waste shall be such that containers can be transported, handled, or moved safely, and without spillage.

(7) Storage of hazardous waste shall be in a secure enclosure, including but not limited to, a building, room or fenced area, which shall prevent unauthorized persons from gaining access to the waste and in such a manner that will minimize the possibility of spills and escape from the area of storage. A caution sign shall be posted and shall be visible from any direction of access or view of hazardous waste stored in such enclosure. Wording of caution signs shall be: "Caution—Hazardous Waste Storage Area—Unauthorized Persons Keep Out."

(8) A label shall be maintained on all containers and storage tanks in which hazardous wastes are stored. Labels shall include the following information:

- (a) Identification number;
- (b) Composition and physical state of the waste;
- (c) Special safety recommendations and precautions for handling the waste;

(d) Statements which call attention to the particular hazardous properties of the waste;

(e) Name and address of the person generating the waste; and

- (f) Date of acceptance at the storage facility.

(9) Records shall be maintained on all containers and storage tanks during the term of storage. The records shall include the following information:

- (a) An identification number which appears on the label;
- (b) Composition and physical state of the waste;

- (c) Amount of waste;

(d) Name and address of the person producing the waste; and

- (e) Date of acceptance at the storage facility.

Section 8. Operation Requirements for Owner/Operator of a Disposal Site. (1) Extremely hazardous wastes, flammable wastes, water-reactive wastes and strong oxidizers shall not be applied directly to the working face of a landfill. Such wastes shall be deposited behind the working face in trenches or wells at landfill sites pursuant to the conditions of the hazardous waste permit.

(2) The department may require the owner/operator to remove from the disposal site and properly dispose of any hazardous waste if the disposal of the waste is not consistent with the requirements of this regulation and conditions specified by the department in the hazardous waste permit.

(3) Hazardous waste that has been deposited in a hazardous waste area shall not be excavated, removed or recovered without written approval of the department. All subsequent handling, treatment, storage, recycling, or disposal of such hazardous waste shall be in conformance with this regulation. A complete manifest shall accompany the wastes if transported to an off-site hazardous waste facility, and applicable permits shall be required pursuant to 401 KAR 2:061E.

(4) Burning wastes shall not be deposited within a hazardous waste disposal site.

(5) Forbidden or Class A explosive wastes as defined in Title 49, Code of Federal Regulations, Sections 173.51 and 173.53, or identified by the department, shall not be disposed on land. Such wastes shall be destroyed or used so as not to present a hazard to public health or the environment.

(6) The department may require that any extremely hazardous waste be treated before it is disposed.

(7) Any person or state or federal agency who generates, treats, stores, recycles or disposes of hazardous wastes shall not create a situation where incompatible wastes, as defined in 401 KAR 2:051E, can come in contact with each other.

(8) Storage and transportation containers holding wastes which might be incompatible shall be separated from each other or protected from each other, in order to prevent the wastes from mixing should the containers break or leak prior to disposal according to the operating plant.

(9) The owner/operator of a hazardous waste facility shall not accept hazardous wastes from generators and transporters not in compliance with applicable state and federal laws and regulations.

Section 9. Records. (1) Hazardous waste facility owner/operators shall maintain at their facility, for a period of not less than three (3) years, the following information:

(a) The names, addresses, and telephone numbers of the waste generator, transporter, processor and disposal site owner/operator of each shipment of hazardous waste transported, received, or stored;

(b) The source, identity, chemical composition, volume, physical state, container type and hazardous properties of each shipment of waste received, transported, or stored at the site;

(c) The method used to process or dispose of each waste; and

(d) The date that each hazardous waste was received for storage or disposal.

(2) Copies of completed manifests may serve the purpose in subsection (1)(a) through (d).

(3) The owner/operator of a hazardous waste disposal facility shall record on a grid or other suitable map the general disposal locations of hazardous wastes. The hazardous waste types shall be identified on the grid or map by types of waste, including but not limited to, acid solution, alkaline solution, pesticides, paint sludge, solvent, tetraethyl lead sludge, tank bottom sediment, contaminated oil and sand and plating waste. The record shall be permanently maintained.

(4) The owner/operator of a hazardous waste disposal facility shall maintain such other permanent summary and special records as required by the department.

Section 10. Weekly Reports by Owner/Operator of Hazardous Waste Disposal Facility. The owner/operator of a hazardous waste disposal facility shall submit a report to the department by the last day of each week, or on such schedule as approved by the department, showing the identity, source, chemical composition, weight or volume, physical state, container type, hazardous properties and method used to dispose of each waste.

Section 11. Accident Reports. Owner/operators of hazardous waste facilities shall report to the department any incident or accident within two (2) hours of the time of occurrence, which results in or could result in the discharge of hazardous waste. The department may require that a written report of the incident or accident be provided within ten (10) days.

JACKIE SWIGART, Secretary

ADOPTED: February 12, 1980

RECEIVED BY LRC: February 14, 1980 at 4:55 p.m.

DEPARTMENT FOR NATURAL RESOURCES
AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Hazardous Material and Waste Management

401 KAR 2:076E. Identification and listing of hazardous waste.

RELATES TO: KRS 224.890

PURSUANT TO: KRS 13.082, 224.017, 224.890

EFFECTIVE: February 14, 1980

EXPIRES: June 12, 1980

NECESSITY AND FUNCTION: KRS 224.890(2) requires the Department for Natural Resources and Environmental Protection to identify the characteristics of and list hazardous wastes.

Section 1. Hazardous Waste Identification. The potential for any waste to be identified as having a hazardous property shall be determined by:

(1) Toxicity testing, using a recognized toxicant extraction procedure such as shown in the "Hazardous Waste Guidelines," to test a representative sample of waste and comparison of the test results with established toxicity parameters as shown in the "Hazardous Waste Guidelines."

(2) Ignitability testing, using a flash point test apparatus and a recognized procedure such as shown in the "Hazardous Waste Guidelines" to test a representative sample of any liquid waste for a flash point of less than 140 degrees Fahrenheit; any waste compressed gas or waste other than liquid, which is considered ignitable either by listing in recognized reference publications or by other tests; or any waste that will oxidize strongly as determined by recognized criteria, such as shown in the "Hazardous Waste Guidelines."

(3) Corrosiveness testing, using a recognized test for pH such as shown in the "Hazardous Waste Guidelines" to test a representative sample of any aqueous waste for a pH of less than three (3) or greater than twelve (12); and, by using a standard testing procedure such as shown in the "Hazardous Waste Guidelines" to test a representative sample of any waste for a corrosion rate greater than 0.250 inches per year of steel (SAE 1020) at a temperature of 130 degrees Fahrenheit.

(4) Radioactivity testing, using an apparatus and recognized procedure as shown in the "Hazardous Waste Guidelines" to test any waste not subject to the Federal Atomic Energy Act of 1954, for any radioactivity above the specified levels contained in 902 KAR 100:080 and 902 KAR 100:085.

(5) Irritation and sensitivity ratings, as published in "Dangerous Properties of Industrial Materials," by N. Irving Sax, Fourth Edition, filed herein by reference, or other recognized references, as listed in the "Hazardous Waste Guidelines."

(6) Pressure generation, incompatibility, or reactivity determination or testing of a representative sample of the waste using published references, lists, or recognized tests such as shown in the "Hazardous Waste Guidelines."

(7) Extreme hazard determination or testing, using published references, lists, or recognized tests such as shown in the "Hazardous Waste Guidelines" from which an oral LD₅₀ is found.

Section 2. Hazardous Waste Lists. A waste that consists of or contains a material cited in the list of chemical names, the list of common names, or is generated by a pro-

cess or source cited in the list of sources issued by the department in "Hazardous Waste Guidelines," list of hazardous wastes, waste sources, and processes, shall be considered a hazardous waste, and shall be handled and disposed of according to the requirements set forth in the hazardous waste regulations, unless it is shown to the satisfaction of the department that the waste does not meet the definition of hazardous waste presented in 401 KAR 2:051E.

Section 3. Hazardous Waste by Definition. A waste that meets the definition of hazardous waste presented in 401 KAR 2:051E shall be considered a hazardous waste whether or not the waste is cited in this regulation or in "Hazardous Waste Guidelines." Such waste shall be handled and disposed of according to the requirements of the hazardous waste regulations.

JACKIE SWIGART, Secretary

ADOPTED: February 12, 1980

RECEIVED BY LRC: February 14, 1980 at 4:55 p.m.

DEPARTMENT FOR NATURAL RESOURCES
AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Hazardous Material and Waste Management

401 KAR 2:081E. Fees.

RELATES TO: KRS 224.033, 224.890

PURSUANT TO: KRS 13.082, 224.017, 224.033,
224.890

EFFECTIVE: February 14, 1980

EXPIRES: June 12, 1980

NECESSITY AND FUNCTION: KRS 224.033(20) provides that the Department for Natural Resources and Environmental Protection may establish, by regulation, a schedule of fees for the cost of processing applications for permits and exemptions or partial exemptions. KRS 224.890 and the hazardous waste regulations require permits for the generation, treatment, storage, recycling, and disposal of hazardous waste.

Section 1. Fee for Annual Registration and Registration Renewal. The fee for annual registration and registration renewal for the generation, treatment, storage, recycling, and disposal of hazardous waste shall be \$100. Separate registration is required for generation, treatment, storage, recycling, and disposal.

Section 2. Fees for Annual Permits and Permit Renewals. (1) The fees for annual permits and permit renewals for the generation, treatment, storage, recycling, and disposal of hazardous waste are as follows:

(a) For hazardous waste generation, excluding extremely hazardous waste generation, the permit fee shall be:

1. 1.3 tons to ten (10) tons annually—\$300.
2. From ten (10) tons to 100 tons annually—\$450.
3. From 100 tons and above annually—\$600.

(b) For extremely hazardous waste generation, the permit fee shall be:

1. Ten (10) tons or less annually—\$1200.
2. From ten (10) tons to 100 tons annually—\$1800.
3. From 100 tons and above annually—\$2400.

(2) For a disposal facility, the permit fee shall be \$5000.

(3) For the recycling of hazardous waste, the permit fee shall be \$250.

(4) For the treatment or incineration of hazardous waste, the permit fee shall be \$250.

(5) For the storage of hazardous waste, the permit fee shall be \$250.

Section 3. Computation of Annual Tonnage. For the purpose of this regulation, the annual tonnage of hazardous waste generated by a person will be based on the amount of hazardous waste generated by that person during the previous year in the form shipped for disposal or storage including water or other non-hazardous substance co-disposed. If the person did not generate any hazardous waste in the previous year, then the initial tonnage will be estimated by the department based upon reports furnished to the department by the person. On-site recycling or treatment processes by a generator may be considered to be a part of the generation process at the discretion of the department and annual tonnage may be assessed on the quantity of hazardous residue from such on-site recycling or treatment.

Section 4. Permits Required. A separate hazardous waste permit is required for generation, treatment, storage, recycling, or disposal of hazardous waste.

Section 5. Permit Modification Fee. If a permittee desires to increase, by an additional hazardous waste, the number of hazardous wastes he generates, treats, stores, recycles, or disposes, the fee for the processing of such permit modification shall be \$100.

Section 6. Exemption from Fees. The fees required under Sections 1, 2 and 5 shall not apply to an existing or proposed publicly-owned facility.

JACKIE SWIGART, Secretary

ADOPTED: February 12, 1980

RECEIVED BY LRC: February 14, 1980 at 3:55 p.m.

JOHN Y. BROWN, JR., GOVERNOR
Executive Order 80-109
February 12, 1980

EMERGENCY REGULATION
Fees for Kentucky Building Code Program

WHEREAS, the Board of Housing, Buildings and Construction is required by KRS 198B.040(7) to adopt and promulgate a mandatory uniform state building code and parts thereof which shall establish standards for construction of all buildings in this state; and

WHEREAS, the Kentucky Building Code has been duly promulgated and filed, to become effective for implementation by the Department of Housing, Buildings and Construction on February 15, 1980; and

WHEREAS, KRS 198B.050(5) and KRS 198B.060(10) authorize the Department to create a schedule of fees to fully cover the cost of the services performed under the Kentucky Building Code by issuing regulations for that purpose; and

WHEREAS, the Board of Housing, Buildings and Construction approved the proposed fee schedule of the department on January 17, 1980; and

WHEREAS, publication and filing of the regulation under KRS Chapter 13.085(1) cannot be completed so as to have the fee schedule in place prior to the beginning of the Kentucky Building Code program; and

WHEREAS, the Secretary of the Public Protection and Regulation Cabinet, in consultation with the Board of Housing, Buildings and Construction, has determined that an emergency exists and asked the Governor to declare the attached regulation immediately effective:

NOW, THEREFORE, I, JOHN Y. BROWN, JR., Governor of the Commonwealth of Kentucky, pursuant to the authority vested in me by KRS 13.085(2), do hereby acknowledge the finding by the Secretary of the Public Protection and Regulation Cabinet that an emergency exists and direct that the attached regulation become effective upon being filed in the office of the Legislative Research Commission.

JOHN Y. BROWN, JR., Governor
FRANCES JONES MILLS, Secretary of State

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction

815 KAR 7:012E. Departmental plan review fees.

RELATES TO: KRS Chapter 198B
PURSUANT TO: KRS 198B.050(5), 198B.060(10)
EFFECTIVE: February 12, 1980
EXPIRES: June 10, 1980

NECESSITY AND FUNCTION: KRS 198B.050(5) authorizes the Board of Housing, Buildings and Construction to issue regulations which are necessary to implement the Kentucky Building Code, and KRS 198B.060(10) authorizes the Department to create a schedule of fees to fully cover the cost of the services performed under the code. This regulation establishes the departmental fee for plan review under the Kentucky Building Code.

Section 1. Submission of Plans and Fees. (1) All plans and specifications required to be submitted to the department under the Kentucky Building Code shall be accompanied by the applicable fee as set forth in this regulation, rounded to the nearest dollar.

(2) All fees required herein shall be in check form payable to the Kentucky State Treasurer.

(3) No approval for construction shall be issued by the department until all required fees have been paid.

(4) The plan review fees required by this regulation are intended to cover the cost of compounding inspections for compliance with such plans.

Section 2. New Construction. (1) Departmental plan review fees for new buildings shall be calculated by multiplying .001 times the construction cost of each occupancy type as listed in the following table:

OCCUPANCY	PER SQUARE FOOT
Residential (excluding single family dwellings and duplexes).....	\$20
Assembly Occupancies	
Nightclub/restaurants.....	35
All other assembly.....	30
Educational.....	20
Day care centers.....	20
Business.....	20
Mercantile.....	20
Industrial factories.....	20
Warehouses.....	11
Institutional.....	25
Frozen food plants.....	20
High Hazard.....	30
All other non-residential.....	20

(2) Plan review fees for additions to existing buildings, which do not require the entire building to conform to the Kentucky Building Code, shall be calculated in accordance with subsection (1) by the measurement of the square footage of the addition, only.

(3) Plan review fees for existing buildings in which the use group or occupancy type is changed shall be calculated in accordance with subsection (1) by using the total square footage of the entire building or structure under the new occupancy type.

(4) Plan review fees for alterations and repairs not otherwise covered by this section shall be calculated by multiplying the contractor's cost for the repairs by .001.

Section 3. Specialized Fees. In addition to the fees required by Section 2, the following fees must be paid for the specialized plan reviews listed:

(1) Sprinkler fees:

AUTOMATIC SPRINKLER REVIEW FEE TABLE

Sprinkler Heads	Plan Review Fee
1—200	\$ 50
201—300	60
301—400	80
401—750	100
over 750	\$100 plus 10 cents per sprinkler over 750

(2) Fire detection system review fee: \$10 per 5,000 square feet up to 70,000 square feet; over 70,000 square feet—\$140 plus \$15 per each additional 20,000 square feet.

(3) Standpipe plan review fee: \$30 (Combination standpipe and riser plans will be reviewed under automatic sprinkler review fee schedule.)

(4) Carbon dioxide suppression system review fee: 1 to 175 pounds of agent—\$35; over 175 pounds of agent—\$35 plus 20 cents per pound in excess of 175 pounds.

(5) Halon 1301 suppression system review fee: Up to 35 pounds of agent—\$35; over 35 pounds—\$35 plus 50 cents per pound in excess of 35 pounds.

(6) Foam suppression system review fee: \$35 per 50 gallons of foam concentrate.

(7) Range hoods review fee: \$20 per hood.

(8) Tanks installation plan review fee: \$25 for the first tank and \$5 for each additional tank.

CARL F. SMOAK, Acting Commissioner
ADOPTED: January 24, 1980
APPROVED: H. FOSTER PETTIT, Secretary
RECEIVED BY LRC: February 12, 1980 at 3:45 p.m.

JOHN Y. BROWN, JR., GOVERNOR
Executive Order 80-88
February 4, 1980

EMERGENCY REGULATION
Department for Human Resources
Bureau for Social Insurance

WHEREAS, the Community Services Administration published an amended final regulation on the Federal Energy Crisis Assistance Program on December 21, 1979, to be effective on that date, which expands the eligible groups who shall receive assistance through the Federal Energy Crisis Assistance Program and establishes a new program end date; and

WHEREAS, the Secretary of the Department for Human Resources is responsible for promulgating by regulation the policies of the Department with respect to the Federal Energy Crisis Assistance Program; and

WHEREAS, the Secretary has promulgated a conforming regulation which should be effective for this winter; and

WHEREAS, the time delays inherent in complying with the procedural requirements of KRS Chapter 13 would preclude the effectiveness of the regulation during the Winter of 1979-80; and

WHEREAS, the Secretary has found that an emergency exists with respect to the said proposed regulation, and that, therefore, such proposed regulation should, pursuant to the provisions of law, be effective immediately upon filing with the Legislative Research Commission:

NOW, THEREFORE, I, JOHN Y. BROWN, JR., Governor of the Commonwealth of Kentucky, by virtue of the authority vested in me by KRS 13.085(2), do hereby acknowledge the finding of emergency by the Secretary of the Department for Human Resources providing for the Federal Energy Crisis Assistance Program and direct that said regulation shall be effective upon filing with the Legislative Research Commission as provided in Chapter 13 of Kentucky Revised Statutes.

JOHN Y. BROWN, JR. Governor
FRANCES JONES MILLS, Secretary of State

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance

904 KAR 2:087E. Eligibility and payments criteria for FECAP.

RELATES TO: KRS 194.050
PURSUANT TO: KRS 13.082, 194.050
EFFECTIVE: February 6, 1980
EXPIRES: June 5, 1980

NECESSITY AND FUNCTION: The Department for Human Resources is authorized by KRS 194.050 to administer a program to provide payments to supply energy for heating or heating-related purposes to needy families within the Commonwealth of Kentucky. This regulation sets forth the eligibility and payments criteria for assistance under the Federal Energy Crisis Assistance Program (FECAP).

Section 1. Application. Each household requesting assistance will be required to complete an application and

provide such information as may be deemed necessary to determine eligibility, in accordance with the procedural requirements prescribed by the department.

Section 2. Definitions. Terms used in FECAP are defined as follows:

(1) "Principal residence" is that place where a person is living voluntarily and not on a temporary basis; the place he/she considers home; the place to which, when absent, he/she intends to return; the place is not a licensed residential facility; and such place is identifiable from other residences.

(2) "Energy for heating" is defined to include electricity, gas and any other heating fuel such as coal, wood, oil, bottled gas, etc., that is used to sustain reasonable living conditions.

(3) "Household" is defined as one or more persons who share common living arrangements in a principal residence.

(4) A "farm household" is one in which the household is actually residing on a place of ten (10) or more acres from which annual sales of farm products amount to \$50 or more annually, or on a place of less than ten (10) acres from which sales of farm products amount to \$250 or more annually.

(5) A "non-farm household" is one not meeting the definition of a farm household.

Section 3. Eligibility Criteria. A household must meet the following conditions of eligibility for receipt of FECAP payments:

(1) For purposes of determining eligibility, the amount of continuing and non-continuing earned and unearned gross income received by the household during the three (3) calendar months preceding the month of application will be considered, except that for farm households and the self-employed, the income shall be annualized and/or prorated as shown in subsection (2) of this section.

(2) Gross income for the three (3) calendar months preceding the month of application must be at or below the applicable amount shown on the income scale for the appropriate size household. Excluded from consideration as income are the supplementary medical insurance premium and any federal, state or local special purpose assistance payments (such as, the aid to families with dependent children child care special allowance, housing and urban development "Section 8" payments, emergency assistance program payments, etc.). Gross farm and self-employment income is the net gross (total income minus costs of production). The self-employment gross (of other than farm households) is determined for the twelve (12) months preceding the month of application and prorated over the twelve (12) month period; the monthly amount is then multiplied by three (3).

Family Size	Income Scale	
	Non-Farm Three Months	Farm Annual
1	\$1063	\$3638
2	1406	4800
3	1750	5963
4	2094	7125
5	2438	8288
6	2781	9450
each additional add	344	1163

(3) The household must have total liquid resources at the time of application of not more than \$1,500 for one (1) or \$2,250 for two (2) or more household members. Liquid resources include savings accounts, checking accounts, stocks, bonds, certificates of deposit and cash on hand.

(4) The household must attest that it is financially unable to obtain or retain energy for heating necessary to prevent or alleviate a life or health threatening situation; and that it is currently, or will be within fifteen (15) days, without energy.

Section 4. Payment Levels. The total payment for a household may not exceed \$400. Payments shall be in accordance with the following criteria:

(1) If the vendor (provider of fuel or energy) uses a continuous billing cycle (e.g., monthly, bi-monthly), arrearage and current month charges may be paid up to \$400 per household.

(2) If the vendor (provider of fuel or energy) uses a non-continuous billing cycle (e.g., is paid at time of delivery), current delivery of fuel charges may be paid up to \$200 per household, except as specified below. It is the intent of the program that each such household shall obtain \$200 worth of fuel at time of delivery, if possible. If the provider is unable to deliver \$200 worth of fuel (due to inadequate storage facilities of the household, or because the provider will not deliver less than a minimum load which costs more than \$200) the actual amount closest to the maximum of \$200 will be authorized. In such instances, the cost of the minimum delivery or the household maximum of \$400 (whichever is less) shall be the maximum allowable payment. Arrearages will not be paid for non-continuous billing vendors unless there is no other available vendor, and the available vendor will deliver fuel only on receipt of payment for arrearages. In such instances payment for arrearages plus current delivery may not exceed the total of \$400 per household.

(3) If the recipient incurs an indirect fuel cost through a rent payment, the amount of the FECAP payment shall be the amount of rent owed for arrearages and the current month, not to exceed a maximum of \$400.

(4) Households previously approved may re-apply and if still eligible, be approved for payment of such remaining amounts as will cause the total payment to the household to equal the household maximum of \$400.

Section 5. Payment Methods. Payment may be authorized to one or more providers, at the discretion of the recipient, in accordance with the following:

(1) If the recipient utilizes a vendor who has a continuous billing cycle, payment is authorized by a two (2) party check made payable to the provider and recipient, except that a direct vendor payment may be authorized if necessary to obtain energy/fuel.

(2) If the recipient utilizes energy from suppliers on an irregular or one (1) time basis, payment may be authorized utilizing a two (2) party check or a check made payable to the vendor only, as appropriate to secure needed fuel.

(3) If no available vendor will accept payment in accordance with subsections (1) or (2) of this section, a direct payment to the recipient may be authorized.

(4) If the recipient incurs an indirect fuel cost through a rent payment, payment is authorized by a two (2) party check made payable to the landlord and recipient. If the landlord will not accept a two (2) party check, a direct payment may be made to the landlord or, if essential to obtain needed services, to the recipient.

Section 6. Time Standards. The department shall make an eligibility determination promptly, but not to exceed seven (7) days from receipt of a completed and signed application.

Section 7. Right to a Fair Hearing. Any individual has a right to request and receive a fair hearing in accordance with 904 KAR 2:055.

Section 8. Effective Dates. The following dates shall be effective for FECAP:

(1) FECAP shall be terminated on June 30, 1980, or by the secretary when actual and projected program expenditures have resulted in utilization of available funds. No authorization for payment may be made after the termination date.

(2) FECAP may be reactivated after termination under the same terms and conditions as shown in this regulation should additional federal funds be made available for that purpose in either federal fiscal year 1980 or succeeding fiscal years.

Section 9. Vendor Responsibilities. Any vendor accepting payment from FECAP for fuel provided eligible recipients is required to comply with the following:

(1) Reconnection of utilities and/or delivery of fuel must be accomplished upon certification for payment.

(2) For balances remaining after acceptance of the FECAP payment, the customer must be offered the opportunity for a deferred payment arrangement or a level payment plan.

(3) A reconnection charge may be imposed only where such a charge was company practice prior to September 1, 1979.

(4) No security deposit may be required to be paid except where such a deposit was required by state law or explicit state regulations in effect prior to September 1, 1979, and where required by law or regulation, to the extent such security deposit is included in a deferred payment arrangement.

Section 10. 904 KAR 2:086E is hereby repealed.

WILLIAM F. HUFFMAN, Commissioner
W. GRADY STUMBO, Secretary

ADOPTED: January 31, 1980

RECEIVED BY LRC: February 6, 1980 at 11:30 a.m.

JOHN Y. BROWN, JR., GOVERNOR
Executive Order 80-87
February 4, 1980

EMERGENCY REGULATION
Department for Human Resources
Bureau for Social Insurance

WHEREAS, the 1979 Congress has enacted legislation establishing a Supplemental Energy Allowance Program, and providing funding for eligible recipients to be administered by state governments; and

WHEREAS, the Secretary of the Department for Human Resources is responsible for promulgating, by

regulation, the policies of the Department with respect to the Supplemental Energy Allowance Program; and

WHEREAS, the Secretary has promulgated a regulation providing for implementation of the Supplemental Energy Allowance Program which should be effective for this winter; and

WHEREAS, the time delays inherent in complying with the procedural requirements of KRS Chapter 13 would preclude the effectiveness of the regulation during the Winter of 1979-1980; and

WHEREAS, the Secretary has, therefore, found that an emergency exists with respect to the said proposed regulation, and that, therefore, such proposed regulation should, pursuant to the provision of law, be effective immediately upon filing with the Legislative Research Commission.

NOW, THEREFORE, I, JOHN Y. BROWN, JR., Governor of the Commonwealth of Kentucky, by virtue of the authority vested in me by KRS 13.085(2), do hereby acknowledge the finding of emergency by the Secretary of the Department for Human Resources with respect to the filing of said regulation of the Department for Human Resources providing for the Supplemental Energy Allowance Program, and direct that said regulation shall be effective upon filing with the Legislative Research Commission as provided in Chapter 13 of Kentucky Revised Statutes.

JOHN Y. BROWN, JR., Governor
FRANCES JONES MILLS, Secretary of State

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance

904 KAR 2:090E. Supplemental energy allowance program.

RELATES TO: KRS 194.050
PURSUANT TO: KRS 13.082, 194.050
EFFECTIVE: February 6, 1980
EXPIRES: June 5, 1980

NECESSITY AND FUNCTION: The Department for Human Resources is authorized by KRS 194.050 to administer a supplemental energy allowance program to provide for the emergency energy needs of low-income individuals and families within the Commonwealth of Kentucky. This regulation sets forth the eligibility and payments criteria for assistance under the Supplemental Energy Allowance Program (SEAP), and provides for the transfer of allocated but unexpended funds to the Federal Energy Crisis Assistance Program, in accordance with the requirements of Public Law 96-126.

Section 1. Eligible Assistance Unit. Any individual or family unit eligible for payments under the Aid to Families with Dependent Children program (AFDC) (but not including AFDC Foster Care recipients) in December 1979 shall be considered an eligible assistance unit so long as the determination of AFDC eligibility was made not later than February 29, 1980. A separate application for the SEAP payment is not required.

Section 2. Payments. Each eligible assistance unit shall automatically receive a SEAP payment in accordance with the following standards:

(1) An eligible assistance unit consisting of one (1) person shall receive a payment of \$50; and

(2) An eligible assistance unit consisting of two (2) or more persons shall receive a payment of \$100.

Section 3. Treatment as Income or Resources. The payments made under this program shall not be considered as income or resources under any other public or publicly assisted income tested program (i.e., program where assistance is contingent on meeting needs standards).

Section 4. Transfer of Allocated but Unexpended Funds. Funds allocated to the department for purposes of this program pursuant to Public Law 96-126 and which are not expended for the payments specified in Section 2 shall be transferred to the Federal Energy Crisis Assistance Program, administered by the department, and utilized in accordance with the laws, rules and regulations governing the administration of that program.

Section 5. Right to a Fair Hearing. Any eligible assistance unit has a right to request and receive a fair hearing in accordance with 904 KAR 2:055.

Section 6. Effective Dates. The following effective dates shall be applicable:

(1) Corrective payments or payments made as the result of a fair hearing may be made through June 30, 1980. No SEAP assistance may be paid to recipients after June 30, 1980, and the program shall terminate on that date.

(2) SEAP may be reactivated after termination under the same terms and conditions as shown in this regulation should additional federal funds be made available for that purpose.

WILLIAM F. HUFFMAN, Commissioner
W. GRADY STUMBO, Secretary
ADOPTED: January 31, 1980
RECEIVED BY LRC: February 6, 1980 at 11:30 a.m.

Amended Regulation Now In Effect

**DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance
As Amended**

904 KAR 1:034. Early and periodic screening, diagnosis and treatment.

RELATES TO: KRS 205.520
PURSUANT TO: KRS 13.082, 194.050
EFFECTIVE: February 6, 1980

NECESSITY AND FUNCTION: The Department for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520[(3)] empowers the department, by regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the provisions relating to the early and periodic screening, diagnosis and treatment service for which payment shall be made by the medical assistance program in behalf of both categorically needy and medically needy children under age twenty-one (21).

Section 1. Participation Requirements. Any health care provider meeting the requirements set forth below may be eligible to participate in the Kentucky Medical Assistance (Medicaid) Program as a screening provider:

(1) A physician must be duly-licensed in the State of Kentucky;

(2) Any early and periodic screening clinic or other organization qualified to provide screening services, including local health departments, shall be under the direction of a duly-licensed physician or registered professional nurse currently licensed by the State of Kentucky who shall be responsible for assuring that the requirements of participation are met and that the procedure established by the Medicaid Program are carried out;

(3) Screening clinics conducted under the direction of a registered professional nurse must have a duly-licensed physician acting as medical consultant; and

(4) Screening examinations and tests performed by licensed professional staff, or supportive staff under the direct supervision of such licensed professional, shall be in accordance with the professional practices act.

Section 2. [1.] Screening. Services rendered by a participating screening clinic or organized group of paramedical professionals directed toward the early detection of diseases and abnormalities shall include but not necessarily be limited to the following:

- (1) Medical history;
- (2) Assessment of physical growth;
- (3) Inspection for obvious physical defects;
- (4) Inspection of ears, nose, mouth, teeth and throat;
- (5) Visual screening, audiometric testing;
- (6) Screening for anemia, including sickle cell anemia;
- (7) Screening for urinary problems;
- (8) Assessment of immunization status and updating immunization;

- (9) Tuberculin skin test;
- (10) Blood pressure on all patients over six (6) years of age and others when indicated;
- (11) Venereal disease testing of post-puberty patients when indicated.

Section 3. [2.] Immunizations: Effective November 1, 1978 each screening provider shall be required to make available, at the time of screening, immunizations appropriate for age and health history of the recipient being screened.

Section 4. [3]. [2.] Diagnosis and Treatment: If, as a result of screening, referral for additional service is indicated, further diagnosis and medical treatment shall be provided for any service which is considered a covered service under the Medical Assistance Program.

Section 5. [4.] Periodicity: The following is the policy of the department with regard to periodicity:

(1) *Definition: Periodicity means the frequency with which an individual may be screened or re-screened.*

(2) *Periodicity limitations: Each eligible recipient may be screened or re-screened within the time frames shown on the periodicity schedule, with additional medical and dental assessments permitted when medically indicated. [once annually (each 365 days), and may not be screened or re-screened within the succeeding 335 days except on the basis of medical necessity.]*

Periodicity Schedule

Age:	Medical	Dental
	2-4 weeks	
	2-3 months	
	5-6 months	
	9-10 months	
	12-15 months	
	16-19 months	
	23-25 months	
	3	3
	4	
	5	
	6	6
	7-8	7-8
	9-10	9-10
	11-12	11-12
	13-14	13-14
	15-16	15-16
	17-21	17-21

WILLIAM F. HUFFMAN, Commissioner
W. GRADY STUMBO, Secretary

ADOPTED: January 31, 1980

RECEIVED BY LRC: February 1, 1980 at 2:45 p.m.

Proposed Amendments

DEPARTMENT OF FINANCE
Board of Hairdressers and Cosmetologists
 (Proposed Amendment)

201 KAR 12:065. Inspection of new, relocated and change of owner salons.

RELATES TO: KRS 317A.050, 317A.060

PURSUANT TO: KRS 317A.060

NECESSITY AND FUNCTION: Any business seeking licensing by this board must meet various city, county and state zoning laws, building and plumbing codes, as well as inspection by board personnel. This board does not issue a dual license for barber shops and beauty salons.

Section 1. All new beauty salons and all beauty salons moving to a new location must complete an application furnished by the board.

Section 2. All new beauty salons, all beauty salons moving to a new location, and all beauty salons changing owners shall notify the board five (5) days before opening for business of the new location, date on which the salon is to be opened for business and name of the owner and/or manager of the salon.

Section 3. All new beauty salons and all beauty salons moving to a new location shall be inspected by an inspector employed by the board before issuance of license. No salon shall open for business prior to issuance of a salon license.

Section 4. All new beauty salons and all beauty salons moving to a new location must comply with all city, county, and state zoning, building and plumbing laws, regulations and codes.

Section 5. All beauty salons shall be separated from all barber shops by a soundproof partition extending to the ceiling and each facility shall have its own individual entrance.

Section 6. Any salon located in a residence shall have an outside entrance [and a lavatory not used for family or residential purposes].

CARROLL ROBERTS, Administrator

ADOPTED: December 3, 1979

RECEIVED BY LRC: January 21, 1980 at 12:30 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Carroll Roberts, Administrator, Kentucky State Board of Hairdressers and Cosmetologists, Suite 300, 304 West Liberty St., Louisville, Kentucky 40202.

DEPARTMENT OF FINANCE
Division of Occupations and Professions
Board of Nursing
 (Proposed Amendment)

201 KAR 20:015. Faculty standards.

RELATES TO: KRS 314.011(5), 314.111

PURSUANT TO: KRS Chapter 314

NECESSITY AND FUNCTION: It is necessary to establish standards for faculty in [nursing schools to assure that students will have an appropriate] educational programs that [to] prepare students [them] for licensure as a registered nurse or as a licensed practical nurse.

Section 1. Each school of nursing must submit to the Board of Nursing by *September 1* [August 1] of each year a list of nurse faculty employed for the subsequent school year. Their nurse faculty positions and academic preparation shall be included.

Section 2. *If the school fails to submit to the board the annual list of faculty by September 1, of each year, the nurse administrator of the program must appear before the board at a scheduled hearing to show cause why the board should continue approval of the nursing program.* [If the nurse faculty does not meet the minimum qualifications as set forth in 201 KAR 20:030 and 201 KAR 20:050 a notice of warning shall be issued to the school.]

[(1) Following receipt of the warning the school will submit:]

[(a) A plan for faculty recruitment;]

[(b) A quarterly report on progress of recruitment plan;]

[(c) A quarterly report of faculty employed and their qualifications.]

[(2) Following receipt of the warning the school shall not:]

[(a) Recruit students;]

[(b) Admit a new class.]

Section 3. *If the nurse faculty do not meet the minimum qualifications as set forth in 201 KAR 20:030 and 201 KAR 20:050 the nurse administrator of the program must appear before the board at a scheduled hearing to show cause why the board should continue approval of the nursing program.* [If the minimum qualifications for faculty have not been met in one (1) year after the warning an automatic probation notice shall be issued.]

[(1) While on probation the school will submit:]

[(a) A plan for faculty recruitment;]

[(b) A quarterly report on progress of recruitment plan;]

[(c) A quarterly report of faculty employed and their qualifications.]

[(2) While on probation the school shall not:]

[(a) Recruit students;]

[(b) Admit a new class.]

[Section 4. If the minimum qualifications for faculty have not been met in one (1) year after the automatic probation, approval of the program shall be withdrawn.]

GAYNOR E. HATFIELD, President

ADOPTED: December 7, 1979

RECEIVED BY LRC: February 8, 1980 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Gaynor E. Hatfield, R.N., President, Kentucky Board of Nursing, 4010 Dupont Cr., Suite 430, Louisville, Kentucky 40207.

DEPARTMENT OF FINANCE
Division of Occupations and Professions
Board of Nursing
(Proposed Amendment)

201 KAR 20:030. Registered nurse schools.

RELATES TO: KRS 314.011(5), 314.111

PURSUANT TO: KRS Chapter 314

NECESSITY AND FUNCTION: It is necessary to establish standards for [registered nurse schools to assure that students will have an appropriate] educational programs [to prepare them for licensure] whose faculty prepares students for licensure as registered nurses.

Section 1. *All members of a nursing faculty including the nurse administrator shall hold an active license in Kentucky within ninety (90) days of employment.* [Nurse Faculty. The number of faculty members shall be sufficient for the total number of students, number of students in each class, number of nursing laboratory areas used, and the curriculum design.]

Section 2. *Nurse Administrator. All nurse administrators appointed after September 1, 1980, shall have a minimum of a masters or higher degree in nursing.* [Nurse faculty members shall be currently licensed in Kentucky within ninety (90) days of employment.]

[(1) The minimum educational qualifications for the nurse administrator of the program shall be a masters degree with a major in nursing or baccalaureate degree with a major in nursing and a masters degree in a related field. The nurse administrator shall have educational preparation and/or experience appropriate to the responsibilities of the position.]

[(2) At least half of the nurse faculty members in programs established after September 1, 1968 shall have a masters degree. By 1980 at least three-fourths (¾) of the nurse faculty members in all programs preparing graduates for licensure as registered nurses shall have a masters degree.]

[(3) All nurse faculty members employed after July 1, 1975 shall have had at least one (1) year of nursing experience as a registered nurse, and shall meet one (1) of the following educational requirements:]

[(a) Baccalaureate degree with a major in nursing;]

[(b) Masters degree in a related field subsequent to a baccalaureate degree with a major in nursing;]

[(c) Masters degree with a nursing major.]

[(4) All faculty members employed prior to July 1, 1975 who do not have a masters degree shall meet that requirement by September 1, 1980. Faculty members with only a

BSN who are employed after July 1, 1975 will have five (5) years in which to earn a masters degree.]

[(5) All faculty members shall present evidence each year of continuing effort toward maintaining nursing competency and/or improving skills in the area of responsibility.]

Section 3. *Nurse Faculty. (1) The number of nurse faculty shall be such as to provide a student/faculty ratio not to exceed a twelve (12) to one (1) in the patient care facility. Observational experiences are excluded from the maximum student/faculty ratio.*

(2) (a) *After September 1, 1985, at least three-fourths (¾) of the nurse faculty members including full-time equivalents in all educational programs whose faculty prepares students for licensure as registered nurses shall have a masters degree in nursing. A nursing school may include as part of the three-fourths (¾) of nursing faculty with masters degree those nurse faculty members employed prior to September 1, 1980, who have a baccalaureate degree in nursing and a masters degree in a related field.*

(b) *Until September 1, 1985, at least fifty (50) percent of the nurse faculty members including full-time equivalents in all educational programs whose faculty prepares students for licensure as a registered nurse shall have a masters degree.*

(3) (a) *By September 1, 1980, the remaining members of the nurse faculty shall have a minimum of a baccalaureate degree in nursing; the percentage of nurse faculty with a minimum of a baccalaureate degree in nursing shall be fifty (50) percent until September 1, 1985, and twenty-five (25) percent thereafter.*

(b) *Nurse faculty employed prior to July 1, 1975, may have a baccalaureate degree in a related field.*

Section 4. [3.] *Students. [(1) Students shall have completed at least an approved four (4) year high school course or the equivalent as determined by an appropriate educational agency.*

[(2) Students shall meet the requirements established by the school for admission to the program, progression and graduation.]

Section 5. [4.] *Curriculum. [(1) The curriculum shall reflect the philosophy and objectives of the school and facilitate the achievement of the objectives of the program.]*

[(2) The curriculum, designed to prepare the graduate for the practice of nursing as a registered nurse, shall include learning experiences whereby students develop:]

[(a) Understanding of the role of the nurse as a member of the profession and the nurse's relationship to other workers in health and related disciplines;]

[(b) Knowledge of facts, principles, and concepts from the natural and social sciences which are basic to nursing practice and to an understanding of plans for care;]

[(c) Ability to use the health-illness continuum as a basis for assessing the nursing and health care needs of people;]

[(d) Understanding of physical and emotional needs of individuals throughout the life cycle;]

[(e) Understanding of and the ability to use effective human relationships;]

[(f) Knowledge of incidence, causes and manifestations of common health problems; and]

[(g) Understanding of nursing principles and ability to apply them in the selection and implementation of appropriate nursing measures for people with specific needs.]

[(3) The curriculum shall provide instruction in:]

[(a) Biological and physical sciences. Content shall include facts, principles, and concepts of the biological and physical sciences which are basic to nursing practice and to understanding plans for health care.]

[(b) Social and behavioral sciences. Content in this area shall be the basis for the student to develop skill in understanding and relating to people.]

[(c) Nursing. Content shall be designed to guide the student in developing an understanding of and skill in assessing, planning, implementing, and evaluating nursing care. It shall include nursing care of adults and children of all age groups and both sexes, mothers and newborn infants and patients with common medical, surgical and mental health problems. The concept of health maintenance shall also be included as well as care of individuals and groups of patients who are mildly, acutely and chronically ill.]

(1) [(4)] There shall be a general plan of the total curriculum, showing placement of courses and the number of hours allotted to class and laboratory learnings.

(2) [(5)] A copy of each current course outline including objectives, planned instruction, learning activities and methods of evaluation shall be kept on file.

(3) [(6)] The nursing program shall be at least two (2) academic years in length.

(4) [(7)] Proposed major curriculum changes (e.g., addition or deletion of courses, decrease in total credit allotment for nursing content, but not rearrangement of content within nursing courses) must be submitted in writing for board approval before implementation of the changes.

GAYNOR E. HATFIELD, President

ADOPTED: December 7, 1979

RECEIVED BY LRC: February 8, 1980 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Gaynor E. Hatfield, R.N., President, Kentucky
Board of Nursing, 4010 Dupont Cr., Suite 430, Louisville,
Kentucky 40207.

DEPARTMENT OF FINANCE
Division of Occupations and Professions
Board of Nursing
(Proposed Amendment)

201 KAR 20:050. Practical nurse schools.

RELATES TO: KRS 314.011(5), 314.111

PURSUANT TO: KRS Chapter 314

NECESSITY AND FUNCTION: It is necessary to establish standards for [practical nurse schools to assure that the students will have an appropriate] educational programs [to prepare them for licensure] whose faculty prepare students for licensure as practical nurses.

Section 1. *All nurse faculty including the nurse director/coordinator shall be currently licensed in Kentucky within ninety (90) days of employment.* [Nurse Faculty. (1) The nurse faculty shall include the nurse director/coordinator of the program and the teachers.]

[(2) All nurse faculty members shall be appointed by and be responsible to the controlling institution/governing body of the nursing program.]

[(3) There shall be a minimum of two (2) full-time nurse faculty members, and the ratio of students to faculty

member in the clinical setting shall not exceed fifteen (15) to one (1).]

[(4) There shall be a nurse faculty member in every facility when students are assigned to give patient care. (Excludes field trips and observational experiences in which the student does not participate in administering nursing care.)]

[(5) Nurse faculty members shall be currently licensed as RNs in Kentucky.]

[(6) Each nurse faculty member shall have had a minimum of three (3) years of nursing experience as a licensed practitioner, one (1) of which shall have been as a RN within the three (3) years immediately preceding the date of appointment.]

[(7) The nurse director/coordinator shall have a baccalaureate degree with a nursing major, and at least one (1) year of experience in teaching nursing or in educational administration.]

[(8) Those nurse directors/coordinators employed prior to September 1, 1968 who do not have a baccalaureate degree on July 1, 1975 but who are enrolled in a planned program leading to a baccalaureate degree with a major other than nursing shall meet the requirements of that degree by September 1, 1979.]

[(9) Any director/coordinator employed prior to September, 1968 who does not have a degree by September 1, 1979 shall meet the requirement of a baccalaureate degree with a major in nursing by September 1, 1980.]

[(10) Teachers who do not have a degree shall present their plan for a program leading to a baccalaureate degree and shall show yearly academic progress toward it.]

[(11) All faculty members shall present evidence each year of continuing effort toward maintaining nursing competency and/or improving teaching skills or expertise in the areas of responsibility.]

Section 2. *All nurse faculty members shall be appointed by and be responsible to the controlling institution/governing body of the nursing program.* [Students. (1) There shall be written policies for selection, admission, progression and graduation which are in accord with the philosophy and objectives of the program.]

[(2) Requirements as to age and general education shall be so prescribed that the applicant meets the statutory requirements for admission to the licensing examination upon graduation from the program.]

[(3) Classes.]

[(a) All new students in a class shall be enrolled as of the same entrance date, and their program shall be in the same location.]

[(b) A new school shall not admit a second class until all requirements have been met for the first class to graduate.]

[(4) There shall be written policies for students relating to their health and welfare that include vacations, holidays, sick time, absences, and daily schedules. The daily schedule for class and practice shall not exceed seven (7) hours per day and thirty-five (35) hours per week.]

Section 3. *Nurse director/coordinator. (1) Nurse director/coordinator employed after July 1, 1980 shall have a bachelors of science degree in nursing and at least one (1) year of experience in teaching or administration.* [Advanced standing. (1) A school which permits the admission of students with advanced standing shall establish written policies and procedures for evaluating and validating knowledge and skills gained from previous courses of

study and/or experience, and determination of placement within the program.]

(2) Those nurse directors/coordinators employed prior to September 1, 1968 may hold a bachelors of science degree in a field other than nursing.

[(2) The written policies shall be approved by the board.]

Section 4. Nurse faculty. (1) There shall be a minimum of at least two (2) full-time nurse faculty members and the ratio of student/faculty in the patient care setting shall not exceed twelve (12) to one (1). Observational experiences are excluded from the maximum student/faculty ratio. [Curriculum. (1) The curriculum shall prepare graduates for beginning practice as licensed practical nurses.]

(2) Each nurse faculty member shall have had a minimum of three (3) years of nursing experience as a licensed practitioner, one (1) of which will have been a RN in the three (3) years immediately preceding the date of appointment.

(3) Nurse faculty who do not have a bachelors of science degree upon employment shall present to the board, within six (6) months of employment, a planned program for the achievement of a baccalaureate degree in nursing or in a related field. This plan must provide for completion of the requirements for a baccalaureate degree within seven (7) years.

[(2) The faculty shall be responsible for the selection of learning experiences and for the teaching and guidance of the students throughout the entire program.]

[(3) The selection of learning experiences shall be based on the faculty's stated objectives.]

[(4) The curriculum shall be organized to correlate instruction and practice throughout the program.]

[(5) The general plan of the total curriculum shall show the placement of courses and the number of hours allotted to class and clinical practice.]

[(6) A copy of each current course outline including objectives, planned instruction, learning activities and methods of evaluation shall be kept on file.]

[(7) The curriculum shall include learning experiences in the care of selected individuals from all age groups and with a variety of nursing needs.]

[(8) The minimum hours of instruction and guided clinical practice shall be 1,220 hours in these broad areas of learning:]

[(a) Personal and vocational relationships: Ethical, legal and vocational responsibilities of practical nurses, communication skills, and psychological content to help students function effectively in interpersonal relationships.]

[(b) Scientific and social foundations basic to practical nursing: Elementary facts and concepts from biological and physical sciences, nutrition, personal, family and community health, growth and development throughout the life span.]

[(c) Nursing care: Basic nursing principles and skills; nursing of patients of all age groups with common conditions of physical and mental illness or disability; nursing of mothers and newborn infants.]

[(9) The program shall extend over an enrollment period of no less than forty-eight (48) weeks.]

[(10) The school shall notify the board in writing of a proposed curriculum change and obtain board approval before instituting the change. This does not include re-arrangement of course content.]

Section 5. Students. (1) Students shall have completed at least an approved four (4) year high school course or the equivalent as determined by an appropriate educational agency.

(2) Classes:

(a) All new students in a class shall be enrolled as of the same entrance date and their program shall be in the same location.

(b) A new program shall not admit a second class until all requirements have been met for the first class to graduate.

Section 6. Curriculum. (1) The minimum hours of instruction and guided clinical practice shall be 1,220 hours in these broad areas of learning:

(a) Personal and vocational relationships: ethical, legal and vocational responsibilities of practical nurses, communication skills, and psychological content to help students function effectively in interpersonal relationships.

(b) Scientific and social foundations basic to practical nursing: elementary facts and concepts from biological and physical sciences, nutrition, personal, family and community health, growth and development throughout the life span.

(c) Nursing care; basic nursing principles and skills; nursing of patients of all age groups with common conditions of physical and mental illness or disability; nursing of mothers and newborn infants.

(2) The program shall extend over an enrollment period of no less than forty-eight (48) weeks.

(3) The school shall notify the board in writing of a proposed curriculum change and obtain board approval before instituting the change. This does not include re-arrangement of course content.

GAYNOR E. HATFIELD, President

ADOPTED: December 7, 1979

RECEIVED BY LRC: February 8, 1980 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Gaynor E. Hatfield, R.N., President, Kentucky Board of Nursing, 4010 Dupont Cr., Suite 430, Louisville, Kentucky 40207.

DEPARTMENT OF FINANCE
Division of Occupations and Professions
Board of Nursing
(Proposed Amendment)

201 KAR 20:070. Licensing; examination.

RELATES TO: KRS 314.041(1), 314.051(1)

PURSUANT TO: KRS Chapter 314

NECESSITY AND FUNCTION: To assure that graduates applying for licenses have met minimum standards set forth by the board as necessary for safe practice. To provide some security in the examination process.

Section 1. (1) To be eligible to write the licensing examination applicants shall have completed the program of instruction and supervised practice to the satisfaction of the nursing faculty and a record of their achievement shall be on file in the board office.

(2) The application for licensure by examination properly executed, together with the current examination fee and

licensure fee and two (2) [a] recent (within past six (6) months) passport type photographs shall be on file in the board office at least thirty (30) days before the date of the examination.

(3) The applicant shall sign the photographs on the front under the facial features. The director of the nursing program from which the applicant graduated shall sign the photograph on the back.

(4) A copy of a marriage certificate or court order shall be supplied by a candidate who wishes to change his/her name after the original application is filed.

(5) [(4)] A standard score of 350 on the state board test pool examination shall be the minimum passing score.

(6) [(5)] Candidates who fail to achieve a passing score may rewrite the examination after meeting the requirements of 201 KAR 20:130 and submitting the proper credentials and examination fee.

(7) The board shall not release state board test pool examination scores to any individual or agency without written authorization from the applicant or licensee except as follows:

- (a) The candidate;
- (b) The school of nursing from which graduated;
- (c) Other state boards of nursing for out-of-state graduates;
- (d) Other state boards when requested for endorsement.

GAYNOR E. HATFIELD, President

ADOPTED: December 5, 1979

RECEIVED BY LRC: February 8, 1980 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Gaynor E. Hatfield, R.N., President, Kentucky Board of Nursing, 4010 Dupont Cr., Suite 430, Louisville, Ky. 40207.

DEPARTMENT OF FINANCE
Division of Occupations and Professions
Board of Nursing
(Proposed Amendment)

201 KAR 20:090. Temporary permit.

RELATES TO: KRS 314.101(3)

PURSUANT TO: KRS Chapter 314

NECESSITY AND FUNCTION: *To protect and safeguard the health and safety of the citizens of Kentucky and to provide a means for applicants to be employed while application for a license is being processed.*

Section 1. (1) An applicant for a license by endorsement or examination to practice nursing in Kentucky may be issued [shall have] a temporary work permit to practice until the license is issued or denied.

(2) A graduate of a board [an] approved [Kentucky] school of nursing in the United States or its territories who applies and is approved to write the first licensing examination scheduled by the board following [within one (1) year after] graduation shall be issued a temporary work permit upon payment of the examination and license fees. [No charge will be made for the temporary work permit. The new graduate with a work permit must work under the supervision of a registered nurse.]

(3) *The new graduate, while holding a temporary work permit, shall practice only in nursing situations where continuous, direct, onsite supervision is provided by a registered nurse, physician or dentist.*

(4) [(3)] An applicant for a license by endorsement who holds a current active license in another state shall be issued a temporary work permit upon proper completion of the application and payment of the license [a] fee. [of not more than five dollars (\$5) plus the regular license fee.]

GAYNOR E. HATFIELD, President

ADOPTED: December 5, 1979

RECEIVED BY LRC: February 8, 1980 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Gaynor E. Hatfield, R.N., President, Kentucky Board of Nursing, 4010 Dupont Cr., Suite 430, Louisville, Ky. 40207.

DEPARTMENT OF FINANCE
Division of Occupations and Professions
Board of Nursing
(Proposed Amendment)

201 KAR 20:130. Retaking examination.

RELATES TO: KRS 314.041, 314.051

PURSUANT TO: KRS Chapter 314

NECESSITY AND FUNCTION: *The licensure examination indicates minimum competence for safe practice. To demonstrate the knowledge for minimum safe practice the individual may take the State Board Test Pool Examination four (4) times within two (2) years after graduation from an approved school of nursing. [If an individual cannot demonstrate the knowledge for minimum safe practice in five (5) years after graduation from an educational program they need remedial work and updating before again attempting to show competence.]*

Section 1. Retaking State Board Test Pool Examination. (1) Candidates shall be required to rewrite only the test(s) failed, for the first two (2) retakes. For the third retake (the fourth writing) the candidate shall rewrite all areas. [except those candidates who have not passed all tests of the licensing examination within two (2) years after the first writing. After two (2) years the total examination must be repeated each time and the applicant shall show evidence of having a remedial program in a school of nursing or with a registered nurse whose credentials are acceptable to the board each time the examination is repeated.]

(2) *After the second retake (third writing of State Board test pool examination) the candidate must show evidence of having a remedial program in a school of nursing or with a registered nurse whose credentials are acceptable to the board before they may be allowed to retake the State Board test pool examination for the third time. [If an individual does not achieve licensure within five (5) years after the date of the first examination after graduation she/he shall not be permitted to take the examination again without repeating a state approved nursing program.]*

(3) *If an individual does not achieve licensure after taking the State Board test pool examination four (4) times within two (2) years after graduation she/he shall not be*

permitted to take the State Board test pool examination again without enrolling in and graduating from an approved school of nursing.

GAYNOR E. HATFIELD, President

ADOPTED: December 7, 1979

RECEIVED BY LRC: February 8, 1980 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Gaynor E. Hatfield, R.N., President, Kentucky Board of Nursing, 4010 Dupont Cr., Suite 430, Louisville, Kentucky 40207.

DEPARTMENT OF FINANCE
Division of Occupations and Professions
Board of Nursing
(Proposed Amendment)

201 KAR 20:150. *Experimental programs.*
[Experimentation.]

RELATES TO: KRS 314.011(5), 314.111(1)

PURSUANT TO: KRS Chapter 314

NECESSITY AND FUNCTION: Nursing education should be progressive and should be [kept] current with new methods, techniques, and content. [Experimental] Testing and evaluation of new types of programs is necessary to maintain nursing education which is responsive to current and future needs. [before adoption.]

Section 1. The board shall give consideration to programs of an experimental nature [design] which represent deviation from these rules and regulations. *Initial* approval will be dependent upon the presence of a well qualified faculty and a carefully developed program plan which includes provision for [suitable] evaluation.

Section 2. *Continued approval (following the graduation of the first class) will be dependent upon the program meeting the rules and regulations of the board.*

GAYNOR E. HATFIELD, President

ADOPTED: December 7, 1979

RECEIVED BY LRC: February 8, 1980 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Gaynor E. Hatfield, R.N., President, Kentucky Board of Nursing, 4010 Dupont Cr., Suite 430, Louisville, Ky. 40207.

DEPARTMENT OF JUSTICE
Kentucky Law Enforcement Council
(Proposed Amendment)

503 KAR 1:040. *Basic training certification.*

RELATES TO: KRS 15.330

PURSUANT TO: KRS 15A.160, 15.330

NECESSITY AND FUNCTION: KRS 15.330 requires the Kentucky Law Enforcement Council to approve and issue certificates of approval to law enforcement officers having met the requirements for participation in law enforcement training programs. This regulation establishes

the requirements for determination of completion of the basic training curriculum of those programs.

Section 1. The KLEC may certify a graduate of a certified school for basic training.

Section 2. Each applicant for basic training at a certified basic training academy must submit an application for training (Form KLEC-29) which provides the appropriate training information. Each applicant must also submit a properly endorsed medical examination form (Form KLEC-30) at the time of application. The applicant must have received a medical examination within the ninety (90) day period preceding the date on which the respective basic training course begins. *A request for an extension of the ninety (90) day requirement must be submitted in writing to the Director of Law Enforcement Training specifying the reason(s) for this request, identifying each applicant for whom the request is made, and providing a properly endorsed medical examination form for each trainee. These requests will be evaluated on an individual basis and the Director of Law Enforcement Training shall retain the authority for approving or denying each of these requests. At no time will an indefinite waiver be issued to any agency concerning this requirement. The Director of Law Enforcement Training shall retain the authority to require any applicant covered by such an extension to again complete any portion or all of the medical examination should the director feel the candidate's physical condition is not commensurate with that required for the training program.*

Section 3. In order to be certified, a graduate of a certified school for basic training must be a member of a lawfully organized police unit or force of state, county, or city government, that is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of the state.

Section 4. In order to successfully complete a Bureau of Training basic course, the cadets must have achieved a minimum score of seventy (70) percent on each of ten (10) weekly written examinations. Failure to achieve seventy (70) percent on the weekly examination will require that the police cadet retake a different examination covering the same material and pass the second (2nd) examination with seventy (70) percent success. Failure to pass the second (2nd) examination will require the cadet to repeat the entire week of instruction and retake the examination for that week. Failure to achieve seventy (70) percent on that examination will require the cadet to retake a different examination covering the same material and pass the fourth (4th) examination with seventy (70) percent. Failure to successfully complete the fourth (4th) examination will disqualify the trainee from participating in the basic training program for a period of one (1) year from the date of that failure. In addition, the police cadet must satisfactorily complete a research paper and participate actively in all assigned projects. The ten (10) weekly examinations plus the research projects and other assignments will weigh fifty (50) percent of the overall score. A minimum overall score of seventy (70) percent shall constitute a passing grade for the academic portion of the basic training course. Oral testing shall not be permitted in the basic training program.

Section 5. The graduate of a certified basic course must demonstrate safety and proficiency in the use of firearms

in a combat firearms course, proficiency in first aid, proficiency in physical agility, and proficiency in mechanics of arrest, restraint and control. If the cadet fails to successfully complete the test in any of these areas, he shall be entitled to repeat that test. Failure to successfully complete the retest will disqualify the trainee from participating in the basic training program for a period of one (1) year from the date of that failure.

Section 6. Any agency which elects to enroll in the basic training program an applicant who has previously failed this training shall assume all costs for retraining this individual. Arrangements for payment of this obligation shall be completed with the training agency prior to the trainee's enrollment.

Section 7. The graduate of any certified school other than the Bureau of Training, who requests certification without attending the complete basic training course, must attain a grade of seventy (70) percent on the Bureau of Training final examination, as well as a score of seventy (70) percent on all other training which may be required.

Section 8. The graduate of a Bureau of Training basic course must participate in a total of 400 hours training. Absences must be made up through additional training assignments.

Section 9. A KLEC staff supervisor will conduct final examinations at all approved schools for all applicants for certification on subjects required in the basic training curriculum except at the Bureau of Training whose staff members will conduct their final examinations.

Section 10. In a certified school other than a Bureau of Training basic course an applicant who fails to make the minimum standing of seventy (70) percent on the Bureau of Training final examination may, by written appeal authorized and countersigned by a duly responsible member of the department of the certified school, request a make-up examination. This appeal must be submitted within thirty (30) days of the time that the applicant was notified of his failure.

Section 11. The time and location of the make-up examination of all certified schools shall be at the sole discretion of the Bureau of Training. Any make-up examination must be conducted within the thirty (30) day period immediately following the date of the initial examination.

Section 12. The second failure of an applicant to meet the minimum examination requirements shall necessitate his repeating the required basic training curriculum.

Section 13. The graduate must have complied with all rules and regulations of the KLEC and the certified school.

Section 14. Each approved school shall, at the conclusion of each basic training course, complete in triplicate an application for training (Form KLEC-29) for each student who has attended the course and this form shall be sent to the Bureau of Training. After certification by the supervisor of the Certification and Standards Section, one (1) copy of the form shall be sent to the Office of Law Enforcement Programming, one (1) copy shall be sent to the department head of the trainee's agency and one (1) copy shall be maintained by the Bureau of Training.

Section 15. When any approved school trains an officer from a department other than its own, the Bureau of Training shall send a copy of the completed application for training to the commanding officer of the trainee's department.

Section 16. All required records shall be maintained and retained by the approved school and shall be available to KLEC or KLEC staff members for inspection.

WILLIAM E. McANULTY, JR., Secretary

ADOPTED: February 13, 1980

RECEIVED BY LRC: February 14, 1980 at 8:30 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Secretary of Justice, State Office Building,
Frankfort, Kentucky 40601.

DEPARTMENT OF JUSTICE

Kentucky Law Enforcement Foundation Program Fund (Proposed Amendment)

503 KAR 5:050. Salary provisions.

RELATES TO: KRS 15.460, 15.470, 15.490

PURSUANT TO: KRS 15.450, 15A.160

NECESSITY AND FUNCTION: KRS 15.450 and 15A.160 provide that the Secretary of the Department of Justice may adopt such regulations as are necessary to properly administer the law enforcement foundation program fund. KRS 15.470 and 15.490 set forth the purposes for which foundation program funds may be used and the reporting procedures for accounting for those funds. This regulation establishes the salary provisions and reporting procedures authorized by KRS 15.470 and 15.490.

[Section 1. To be eligible for participation in the fund, the local unit shall enact or amend an appropriate ordinance or resolution effecting compliance by the local unit and its police officers with the provisions of KRS 15.410 to 15.510 and these regulations. A certified copy of the ordinance or resolution shall be submitted by the local unit to the department with the local unit's application for participation in the fund.]

Section 1. [2.] (1) Incentive funds shall be used only as a cash supplement to compensate police officers who meet the qualifications established by law and these regulations.

(2) Each police officer shall be entitled to receive the state incentive fund supplement which his qualifications brought to the local unit.

(3) Incentive funds shall not be used to supplant existing salaries or as a substitute for normal salary increases under the fund which would violate any federal or state law or regulation regarding wage guidelines.

(4) The local unit shall not be required to award normal salary increases under the fund which would violate any federal or state law or regulation regarding wage guidelines.

Section 2. [3.] Upon acceptance for participation in the fund, the local unit shall be eligible to receive fifteen (15) percent of each qualified police officer's salary from the fund to be paid to each officer in addition to his base

salary. The award to the local unit shall be based upon the total base salaries to all qualified full-time, sworn police officers employed by the local unit.

Section 3. [4.] Upon acceptance for participation in the fund, the local unit shall be eligible to receive fifty (50) percent of any salary increase paid to police officers solely because of college credits attained not to exceed \$500 per year for any one (1) police officer. Payment shall be based upon the following schedule:

Number of Hours Attained	Amount of Annual Incentive Payment	
	Max. Temp. Payment *	Max. Perm. Payment **
6 or more hours but less than 30	\$200	\$ 0
30 or more hours but less than 60	350	200
Associate Degree	400	250
60 or more hours but less than 90	450	350
90 or more hours but less than 120	500	450
120 or more hours but no degree	500	450
Bachelor's Degree or more	500	500

* Temporary payments can only be made to police officers who successfully complete at least twelve (12) semester hours, or the equivalent thereof each fiscal year. Eligibility must be verified on or before the close of the respective fiscal year by submission of a current, official transcript.

** Permanent payments may be made whether or not the officer successfully completes twelve (12) semester hours per year.

Section 4. Pursuant to 503 KAR 5:010, a police officer's base salary shall be calculated by utilizing the most appropriate of the following formulas:

(1) The annual base salary for salaried supervisory personnel who utilize at least eighty (80) percent of their work time performing supervisory law enforcement activities will be equal to the total annual salary provided to them by local ordinance or resolution.

(2) A police officer who devotes more than twenty (20) percent of his time to non-supervisory law enforcement activities shall calculate his annual base salary as 2,080 hours multiplied by his respective hourly wage rate.

[Section 5. Each police officer's base salary is calculated by using the following formula: 2,080 hours divided by the number of work hours per year required by the local unit multiplied by the salary paid by the local unit minus expenses equals the base salary paid for a standard work year. The number of work hours paid for holidays, annual leave, sick leave, and training leave are counted the same as any other work day. Examples:]

[(1) A police officer is required to work sixty (60) hours per week (3,120 hours per year) and his pay for 3,120 hours is \$6,552. He has an expense of \$100 which is disallowed. The following application of the formula would result:]

$$[2,080/3,120 \times 6,552 - 100 = 4,268]$$

[This police officer would not qualify.]

[(2) A police officer works fifty-six (56) hours per week (2,912 hours per year) and his pay is \$6,406. He has an expense of \$175 which is disallowed. The following application of the formula would result:]

$$[2,080/2,912 \times 6,406 - 175 = 4,400]$$

[This police officer would qualify and his salary incentive would be computed on \$4,400.]

Section 5. [6.] (1) Request for funds by the local unit shall be submitted to the department not later than thirty

(30) days prior to the beginning of the month in which the funds are to be expended.

(2) The department shall mail fund checks by the first day of each month to all local units which have filed timely requests for funds.

(3) The local unit shall acknowledge receipt of funds to the department on forms provided for that purpose.

Section 6. [7.] (1) The local unit shall include the additional compensation paid to each police officer from the fund as a part of the officer's salary in determining all payroll deductions.

(2) The local unit shall provide each police officer with a check stub or separate receipt upon which the gross sum of incentive funds paid to the police officer is identified.

(3) The local unit shall disburse incentive funds during the month for which the funds are requested.

Section 7. [8.] The local unit shall maintain a separate account for all incentive funds which it receives pursuant to KRS 15.410 to 15.510 and these regulations.

Section 8. [9.] The local unit shall maintain records to document that each police officer devotes sufficient hours performing police duties to qualify him for incentive funds consistent with his base salary.

Section 9. [10.] (1) Each participating local unit shall submit quarterly reports to the department within fifteen (15) days of the close of the quarter falling on March 31, June 30, September 30, and December 31 of each year. There shall be a separate quarterly report for police training incentive funds and educational incentive funds.

(2) The quarterly reports shall include the name, rank, social security number, date of employment, annual base salary, and the amount of incentive funds received for each police officer and any other information specifically requested on the respective quarterly report form.

[Section 11. The local unit shall comply with all provisions of law applicable to local police and shall file all reports as required by laws or pursuant to these regulations.]

[Section 12. Each local unit employing forty (40) or more police officers shall provide the department with a semi-annual report on police manpower allocation. The report shall clearly demonstrate how the agency's patrol allocation has considered major crime areas.]

Section 10. [13.] (1) The local unit may be audited by the department or the Law Enforcement Assistance Administration pursuant to established audit procedures.

(2) For audit purposes, the local unit shall maintain accurate financial records. Such records shall include, but are not limited to, books of original entry, source documents supporting accounting transactions, the general ledger, subsidiary ledgers, personnel and payroll records, cancelled checks, and any related document and record.

(3) These records shall be retained by the local unit until destruction is authorized by the department or the Law Enforcement Assistance Administration.

WILLIAM E. McANULTY, JR., Secretary

ADOPTED: February 13, 1980

RECEIVED BY LRC: February 14, 1980 at 8:30 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary of Justice, State Office Building, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET
Department of Education
Bureau of Administration and Finance
(Proposed Amendment)

702 KAR 4:010. Construction project application.

RELATES TO: KRS 162.060

PURSUANT TO: KRS 13.082, 156.070, [156.130,]
156.160, 157.420

NECESSITY AND FUNCTION: To provide information necessary for implementation of proposed school facility construction of the highest identified priority.

Section 1. A local board of education shall submit for approval by [to] the Superintendent of Public Instruction, applications on forms provided by the State Board for [of] Elementary and Secondary Education for [all] proposed school construction projects. An application for each project containing the applicable information shall be submitted by the local district and a decision made by the Superintendent of Public Instruction within sixty (60) days. *An application must be submitted for any project which uses foundation program capital outlay funds. An application shall be submitted for a new building, addition, or alteration of an existing building regardless of the source of funds used.*

RAYMOND BARBER
Superintendent of Public Instruction

ADOPTED: January 22, 1980

RECEIVED BY LRC: February 4, 1980 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Fred Schultz, Secretary, Kentucky State Board for
Elementary and Secondary Education, 17th Floor, Capital
Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET
Department of Education
Bureau of Administration and Finance
(Proposed Amendment)

702 KAR 4:020. Plans and specifications for construction.

RELATES TO: KRS 162.060

PURSUANT TO: KRS 13.082, 156.070, [156.130,]
156.160

NECESSITY AND FUNCTION: To prepare plans and specifications for school building construction.

Section 1. After approval by the Superintendent of Public Instruction [of] an application of forms provided by the State Board for Elementary and Secondary Education containing program and financial information, the architect shall prepare *schematics* [sketches] of [the] proposed construction from written educational requirements supplied by the local board of education [which upon approval of the local board of education shall be submitted to the Superintendent of Public Instruction for review and approval]. *These schematics, approved by the local board of education, shall be submitted to the Superintendent of*

Public Instruction for review and approval along with an information copy of the educational requirements. Provided no action is taken by the local board of education within one (1) year from the date of approval and written notification given to the Superintendent of Public Instruction, the approval is subject to review and/or rescission.

Section 2. Upon approval of the schematic plans, the design development plans shall be submitted to the Superintendent of Public Instruction for review and approval. The tentative specifications and the tentative cost estimate shall be submitted for review by the Superintendent of Public Instruction on forms provided by the State Board for Elementary and Secondary Education. [Upon approval of proposed sketches or program plan, the preliminary plans, outline specifications, and estimated cost shall be submitted to the Superintendent of Public Instruction for approval on forms provided by the State Board for Elementary and Secondary Education.]

Section 3. Design development [Preliminary] plans shall include the type of construction, a general vicinity plan, and a plot plan which show the location of existing and proposed buildings, existing and proposed contour lines, utility lines and easements, driveways and highways, floor plan of building, preliminary design of mechanical, electrical and structural systems, sections through the building and elevations of the buildings. The architect shall include a one-fourth (1/4) inch scale drawing of all special areas after acceptable design development [preliminary] plans have been submitted as set forth in Section 2. These drawings shall show all equipment proposed in each special area. After approval of design development [preliminary] plans by the Superintendent of Public Instruction, the local board of education may authorize the architect or engineer to prepare the construction documents [completed plans and specifications].

Section 4. Approval of the construction documents [completed plans and specifications] shall be given in writing by the Superintendent of Public Instruction prior to advertisement for bids. The construction documents [Completed plans and specifications] shall include [all] the provisions required in the design development [preliminary] plans plus detailed information concerning site development, plumbing, heating, ventilation, electrical and structural design. The specifications shall provide for contractual conditions [contract documents], insurance, performance and payment bonds, prevailing wage scale and technical specifications.

Section 5. Until such time that construction is finally completed and/or occupied by the local board of education, the contractors shall carry any and all insurance required by law and regulation[, and custom] to hold the board safe from loss as required by the contract documents. Such insurance shall include but not be limited to liability, builders' risk, including the perils of fire and extended coverage, vandalism, [and] malicious mischief, and [such] boiler and machinery insurance [as may be required by the law or the contract documents]. The architect or engineer shall attest to the board in writing of the existence of coverage according to the law and contract documents [the schedule of such coverage]. In the event the local board of education elects to carry a portion of the

necessary insurance, a plan for such coverage shall be submitted to the Superintendent of Public Instruction for his approval.

RAYMOND BARBER

Superintendent of Public Instruction

ADOPTED: January 22, 1980

RECEIVED BY LRC: February 4, 1980 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Fred Schultz, Secretary, Kentucky State Board for
Elementary and Secondary Education, 17th Floor, Capital
Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET
Department of Education
Bureau of Administration and Finance
(Proposed Amendment)

702 KAR 4:040. Contract completion; changes; retainage.

RELATES TO: KRS 162.070

PURSUANT TO: KRS 13.082, 156.070, [156.130],
156.160

NECESSITY AND FUNCTION: To provide information to confirm a contract which is in accord with the approved completed plans and specifications and to insure that the contract is completed in accord with the plans and specifications.

Section 1. A copy of the bids received based on approved plans and specifications with a copy of the proposed contract *on forms provided by the State Board for Elementary and Secondary Education*, shall be submitted to the Superintendent of Public Instruction. No contract shall be awarded that is not in accord with the approved completed plans and specifications. The amount of the contract shall not exceed the funds approved by the Superintendent of Public Instruction for the proposed project. The local board of education shall submit to the Superintendent of Public Instruction a copy of the completed contract, a copy of the insurance documents and a copy of the performance and payment bond.

Section 2. (1) Changes in contract, working drawings, specifications, and contract documents, which are within the scope of the project may be approved. A copy of any change order issued in connection with the project must be in writing and signed by the architect or engineer and the contractor *as a recommendation and approved in writing by an authorized representative of the local board of education and incorporated in the official minutes of the local board of education*. This document shall contain an explanation of the reasons for the change.

(2) Any such change order proposal involving an amount in excess of \$2,500 shall first be submitted for approval to the Superintendent of Public Instruction. *This statement shall become a part of the contract document.*

Section 3. The board of education shall withhold ten (10) percent of the first one million dollars and five (5) percent of the completed performance above one million

dollars of the contract price of the work until the work is substantially completed. Upon substantial completion of the work, the ten (10) percent retainage may be reduced to five (5) percent with certification of the architect or engineer and approval of the board of education. No part of the five (5) percent retainage shall be paid until the Superintendent of Public Instruction has made final inspection of the completed construction *in accordance with the [and approved plans, specifications, and] contract document*. The local board of education shall request the required inspection upon approval of the architect's or engineer's certification of substantial completion.

Section 4. (1) The architect or engineer shall furnish the local board of education the appropriate State Board for *Elementary and Secondary* [of] Education form with applicable information requesting final approval. The local board of education shall approve such form and forward the Superintendent of Public Instruction a completed copy or a letter stating why the board does not agree that the construction is completed.

(2) A written statement approving the completion or a list of items to be completed will be given to the local board of education, with a copy to the architect or engineer. Written approval *by the Superintendent of Public Instruction authorizing* [and authorization of the] full payment of the contract will be given when the building project is completed according to plans and specifications and approved change orders.

RAYMOND BARBER

Superintendent of Public Instruction

ADOPTED: January 22, 1980

RECEIVED BY LRC: February 4, 1980 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Fred Schultz, Secretary, Kentucky State Board for
Elementary and Secondary Education, 17th Floor, Capital
Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET
Department of Education
Bureau of Administration and Finance
(Proposed Amendment)

702 KAR 4:050. Building sites; inspection, approval.

RELATES TO: KRS 162.010

PURSUANT TO: KRS 13.082, 156.070, 156.160

NECESSITY AND FUNCTION: To provide for the location of school buildings in accordance with the program approved by the Superintendent of Public Instruction.

Section 1. The Superintendent of Public Instruction shall cause an inspection to be made of each proposed school building site or site addition. Site approval must be given by the Superintendent of Public Instruction prior to any purchase or commitment to purchase, except that an option-to-purchase which in no way obligates purchaser, may be executed to assure availability of site during this approval procedure. All school sites shall be in agreement with the educational facilities survey recommendations as

approved by the Superintendent of Public Instruction and shall have the approval of the Superintendent of Public Instruction prior to initiation of an application for approval of a construction project.

Section 2. The minimum size of school sites shall be as follows:

(1) Elementary school: Five (5) acres plus an additional acre for each 100 or fraction of 100 students of anticipated enrollment.

(2) Middle school, junior high school, and high school: Ten (10) acres plus an additional acre for each 100 or fraction of 100 students of anticipated enrollment.

(3) *Any deviation from subsections (1) and (2) above shall be made only after investigation and approval by the Superintendent of Public Instruction.*

Section 3. Prior to contracting for the purchase of a school site, *it shall be determined by the local board of education that the following conditions can be met and assurances will be given in writing to the Superintendent of Public Instruction prior to his approval to acquire the site [information shall be provided to and approved by the Superintendent of Public Instruction:]*

(1) A fee simple title shall be obtained in conformance with KRS 162.010. A copy of the deed and attorney's title certificate shall be furnished the Superintendent of Public Instruction for approval of the title to the site.

(2) *Assurances that an adequate water supply and sewage disposal can [shall] be approved by the Department of Natural Resources and Environmental Protection and the Fire Marshal's office having jurisdiction.*

(3) *Assurances of adequate access to [adequate] public roads or streets to accommodate anticipated school traffic.*

(4) *A copy of a plat of the site survey showing any easements prepared by a registered land surveyor.*

Section 4. A permanent monument (four (4) by four (4) by eighteen (18) inches deep concrete with a brass pin) shall be set in the boundary line of the site at a point which will provide a starting point for initial and final plot of metes and bounds which will circumscribe the site.

RAYMOND BARBER
Superintendent of Public Instruction

ADOPTED: January 22, 1980

RECEIVED BY LRC: February 4, 1980 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Fred Schultz, Secretary, Kentucky State Board for
Elementary and Secondary Education, 17th Floor, Capital
Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET
Department of Education
Bureau of Administration and Finance
(Proposed Amendment)

702 KAR 4:070. Mechanical, electrical, sanitary, heating and ventilation design.

RELATES TO: KRS 162.060, 162.160

PURSUANT TO: KRS 13.082, 156.070, [156.130,] 156.160(5)

NECESSITY AND FUNCTION: To provide for healthy, safe and comfortable space for learning.

Section 1. The design of the mechanical, ventilation or air conditioning system in schools shall be in accord with the recommendations and standards contained in the latest edition of the American Society of Heating, Refrigeration and Air Conditioning Engineers Guide.

(1) (a) The mechanical room shall be planned to permit repair and replacement of equipment, satisfactory cleaning and care, and provide for combustion air. The mechanical equipment shall be remote from the instructional areas and shall be sufficiently soundproofed so that its operation will not disturb instruction in the classrooms.

(b) Where the roof areas are being used to house major mechanical and electrical components, a set of stairs or ships ladder shall be provided. [Walkways shall be provided on the roof from roof access point to each piece of major mechanical and electrical equipment.]

(2) The heating system shall be of ample capacity and so installed as to insure uniform temperature of seventy (70) degrees being maintained in all occupied rooms when the outside temperature is zero (0). The air conditioning system (if provided) shall be of ample capacity and so installed as to insure uniform temperature of seventy-five (75) degrees, fifty (50) percent relative humidity being maintained in all occupied rooms when outside temperature is ninety-five (95) degrees db, seventy-eight (78) degrees wb.

(3) Mechanical ventilation shall be provided in all new schools and additions having six (6) or more classrooms.

(4) Mechanical ventilation system in classrooms shall provide eight (8) air changes per hour or thirty (30) cfm per pupil during occupied periods, whichever is greater. A minimum of ten (10) percent of this amount shall be outside air. Mechanical ventilation systems shall be capable of maximum utilization of outside air for ventilating and cooling purposes. Mechanical ventilation systems shall be provided with approved filters and automatic room temperature control. Air shall be introduced in such a manner as not to produce drafts.

(5) Mechanical ventilation systems for all multipurpose rooms, auditoriums, gymnasiums and cafeterias shall provide a minimum of six (6) air changes per hour or fifteen (15) cfm per occupant, whichever is greater, a system shall be designed so that it is capable of providing 100 percent outside air for ventilation or cooling when required.

(6) All *interior instructional areas* [windowless classrooms] shall be air conditioned.

Section 2. All electrical work shall conform to the requirements of the National Electric Code in effect at the time of approval of the plans or changes thereto, and installation must be approved by authorities having jurisdiction prior to acceptance of the project.

(1) Electrical service entrance lines to school buildings shall be remotely located from student traffic lanes and areas planned for outside activities.

(2) Artificial light at a minimum of fifty (50) footcandles at desk level shall be provided for a classroom.

(3) Artificial light at a minimum of twenty (20) footcandles shall be provided for all stairways and corridors.

(4) Light switches in shower and toilet rooms shall be remotely located from plumbing fixtures. Windowless shower and toilet rooms shall be keyed operated switches or a minimum of one (1) continuous lighted emergency fixture.

(5) A minimum of two (2) duplex convenience outlets located remote from each other shall be provided for each classroom. For ETV power supply, one (1) of the outlets shall be located not less than forty-eight (48) inches nor more than sixty (60) inches above the floor at the end of a chalkboard remote from the entrance to the classroom.

(6) A convenience outlet shall be provided at each drinking fountain location.

(7) Each corridor shall be provided with grounded convenience outlets of such capacity and at such intervals to accommodate floor cleaning machines in corridors and classrooms.

(8) A convenience outlet shall be located near all major entrances of school buildings.

Section 3. All plumbing shall conform to the requirements of the Kentucky plumbing code in effect at the time of approval of the plans or changes thereto, and installation must be approved by authorities having jurisdiction prior to acceptance of the project.

(1) The sewage disposal plant, where required on school property, shall be remotely located from all developed areas. Natural or installed screening shall be provided for the disposal unit.

(2) Drinking fountains shall be provided in the ratio of one (1) to seventy-five (75) students. A minimum of one (1) drinking fountain on each floor and/or each wing shall be provided. Not more than two (2) drinking fountains shall be permitted at each location. Drinking fountains shall not be placed in toilet rooms.

(3) Physical education shower and locker rooms for each sex shall be provided in all schools housing seventh (7th) grade and above.

(4) Each school building shall provide access to one (1) toilet compartment, for each sex, that will accommodate a wheelchair.

(5) When an addition to an existing building is made, additional sanitary conveniences, when counted with the existing conveniences, shall be provided to meet the requirements for the total student capacity.

(6) A hose bib and floor drain shall be provided in all toilet rooms containing more than one (1) water closet. Hose bibs shall be a minimum of eighteen (18) inches above floor and readily accessible.

(7) The following schedule shall be used as a basis for installing the fixtures in toilet rooms. Consideration will be given to multiple type lavatories.

ELEMENTARY SCHOOLS

No. of Boys	Water Closets	Urinals	Lavatories	No. of Girls	Water Closets	Lavatories
25	1	1	1	25	2	1
50	2	2	2	50	3	2
100	2	4	3	100	6	3
200	3	6	5	200	8	5
300	4	8	6	300	10	6
400	5	10	8	400	12	8
500	6	12	9	500	14	9

MIDDLE, JUNIOR HIGH AND SECONDARY SCHOOLS

No. of Boys	Water Closets	Urinals	Lavatories	No. of Girls	Water Closets	Lavatories
25	1	1	1	25	1	1
50	1	2	1	50	2	1
100	2	4	2	100	5	2
200	3	6	4	200	7	4
300	4	8	5	300	9	5
400	5	10	7	400	11	7
500	6	12	8	500	13	8

(8) School buildings of six (6) classrooms or more shall be provided with two (2) exterior freeze-proof hose bibs.

(9) A custodial service sink and shelving shall be provided, in a custodial work room, on each floor level of the building.

RAYMOND BARBER

Superintendent of Public Instruction

ADOPTED: January 22, 1980

RECEIVED BY LRC: February 4, 1980 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Fred Schultz, Secretary, Kentucky State Board for Elementary and Secondary Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

Kentucky School Building Authority
(Proposed Amendment)

723 KAR 1:045. Project architects, engineers and fiscal agents.

RELATES TO: KRS 157.820

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: Establishes procedures for employing architects, engineers and fiscal agents for local school district projects.

Section 1. Each school district submitting an application for assistance from the authority shall, upon written request, submit for review and final approval by the authority a contract, using form BG-A/E-1, with an architect and/or engineer for such project. *Architects and engineers shall be licensed to do business in Kentucky and shall be registered with their respective boards of licensure.*

Section 2. Architects and/or engineers so employed shall at the end of each month for each construction project prepare an estimate of work completed and materials

used on each project. Such an estimate shall be provided the local board of education for their approval on or before the tenth day of each month and shall cause to be withheld ten (10) percent of the first one (1) million dollars and five (5) percent of the completed performance above one (1) million dollars of the contract price of the work until the work is substantially completed. Upon substantial completion of the work, the ten (10) percent retainage may be reduced to five (5) percent with certification of the architect or engineer and approval of the Superintendent of Public Instruction. No part of the five (5) percent retainage shall be paid until the Superintendent of Public Instruction has made final inspection of the completed construction in accordance with approved plans, specifications and contract documents. When certified for payment by the local board of education and approved by the Superintendent of Public Instruction, such estimate shall provide the basis for all authority payments. This provision shall be inserted in each BG-A/E-1 contract.

Section 3. Each school district submitting an application for assistance from the authority shall, upon written request, submit for review and final approval by the authority a contract for the services of a fiscal agent for such project.

ARNOLD GUESS, Director

ADOPTED: October 23, 1979

RECEIVED BY LRC: January 16, 1980 at 3:15 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Mr. Arnold Guess, Secretary, Kentucky School Building Authority, Room 1520, Capital Plaza Tower, Frankfort, Kentucky 40601.

**Kentucky School Building Authority
(Proposed Amendment)**

723 KAR 1:055. Insurance coverage.

RELATES TO: KRS 157.820, 157.870

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: To provide for uniform project administration and required insurance programs on local school district projects.

Section 1. Local school districts receiving assistance from the authority shall administer such projects in accordance with KRS Chapter 162 and Title 702, Chapter 4, Kentucky Administrative Regulations. The architect and/or engineer shall provide the authority a copy of his report to the local board of insurance carried pursuant to 702 KAR 4:020(5).

Section 2. Once a local district project has been completed and accepted by the Superintendent of Public Instruction and a local board of education, the local board of education shall annually on or before July 1 of each year in which the authority holds title to the project, submit on forms approved by the authority, a report of insurance coverage on the project as provided for in KRS 157.870(1).

Insurance coverage will be for the full insurable value of the project building.

ARNOLD GUESS, Director

ADOPTED: October 23, 1979

RECEIVED BY LRC: January 16, 1980 at 3:15 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Mr. Arnold Guess, Secretary, Kentucky School Building Authority, Room 1520, Capital Plaza Tower, Frankfort, Kentucky 40601.

**PUBLIC PROTECTION AND REGULATION CABINET
Department of Labor
Occupational Safety and Health
(Proposed Amendment)**

803 KAR 2:020. Adoption of 29 CFR Part 1910.

RELATES TO: KRS Chapter 338

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules and regulations, and standards. Express authority to adopt by reference established federal standards and national consensus standards is also given to the board. The following regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of general industry.

Section 1. The Occupational Safety and Health Standards Board hereby adopts 29 CFR Part 1910, the Occupational Safety and Health Standards for General Industry, published by the Commerce Clearing House, Inc., Chicago, Illinois 60646, in the March 1979 Edition, Copyright Date 1979, These standards are hereby adopted by reference with the following additions, exceptions, and deletions.

(1) 29 CFR Part 1910.1 shall read as follows:

"The provisions of this regulation adopt and extend the applicability of established federal standards contained in 29 CFR Part 1910 to all employers, employees, and places of employment throughout the Commonwealth except those excluded in KRS 338.021."

(2) 29 CFR Part 1910.2 shall read as follows: As used in this part, unless the context clearly requires otherwise:

(a) "Act" means KRS Chapter 338.

(b) "Assistant Secretary of Labor" means the Commissioner of Labor, Commonwealth of Kentucky.

(c) "Employer" means any entity for whom a person is employed except those employers excluded in KRS 338.021.

(d) "Employee" means any person employed except those employees excluded in KRS 338.021.

(e) "Standard" means a standard which requires conditions or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe and healthful employment. "Standard" has the same meaning as and includes the words "regulation" and "rule."

(f) "National consensus standard" means any occupational safety and health standard or modification thereof which has been adopted and promulgated by a nationally recognized standards-producing organization.

(g) "Established federal standard" means any operative occupational safety and health standard established by any agency of the United States Government.

(h) An employer, required under these standards to report information to the U.S. Department of Labor, or any subsidiary thereof, shall instead report such information to the Kentucky Department of Labor, U.S. 127 South, Frankfort, Kentucky 40601.

(3) 29 CFR 1910.141(c)(2)(i) shall read as follows:

"(i) Each water closet shall occupy a separate compartment with walls or partitions between fixtures sufficiently high to assure privacy."

(4) 29 CFR 1910.151 relating to medical services and first aid shall be changed to read as follows:

"(a) The employer shall ensure the ready availability of medical personnel for advice and consultation on matters of occupational health."

"(b) Employers with eight (8) or more employees within the establishment shall have persons adequately trained to render first aid and first-aid supplies approved by a consulting physician, along with a signed list of these supplies, shall be readily available. Outside salesmen, truck drivers, seasonal labor, and others who while performing their duties, are away from the premises more than fifty (50) percent of the time are not to be included in determining the number of employees."

"(c) All other employers shall, in the absence of an infirmary, clinic, or hospital in near proximity to the workplace which is used for the treatment of all injured employees, have a person or persons adequately trained to render first aid. First-aid supplies approved by the consulting physician shall be readily available."

"(d) Where the eyes or body of any person may be exposed to injurious corrosive materials, suitable facilities for quick drenching or flushing of the eyes and body shall be provided within the work area for immediate emergency use."

(5) 29 CFR 1910.217(b)(7)(xii) relating to machines using part revolution clutches shall be amended by adding the following:

"This provision will not prevent the employer from utilizing a reversing means of the drive motor with the clutch-brake control in the 'inch' position."

(6) 29 CFR 1910.1005 4,4'-methylene bis (2-chloroaniline) and 29 CFR 1910.1003 through .1016 paragraphs (c)(6), Laboratory Activities, printed in the Federal Register, Volume 39, Number 125, June 27, 1974, are in effect.

(7) Paragraph 1910.1005(c)(7) of the 29 CFR 1910 General Industry Standards shall read as follows:

"Premixed Solutions: Where 4,4'-methylene bis (2-chloroaniline) is present only in a single solution at a temperature not exceeding 120 degrees Celsius, the establishment of a regulated area is not required; however, (i) only authorized employees shall be permitted to handle such materials."

(8) 29 CFR 1910.101(b) shall be amended by revocation of referenced pamphlet P-1-1965 and the adoption of P-1-1974, herein filed by reference.

(9) 29 CFR 1910.1028 "Occupational Exposure to Benzene," Paragraph (a)(2)(iii) and Paragraph (k)(2)(iii) were inadvertently transposed in the printing and shall read as follows: 1910.1028(a)(2)(iii) work operations where the

only exposure to Benzene is from liquid mixtures containing 0.5 percent (0.1 percent after June 27, 1981) or less Benzene by volume, or the vapors released from such liquids. 1910.1028(k)(2)(iii) liquid mixtures containing 5.0 percent or less Benzene by volume which were packaged before June 27, 1978.

(10) Amend 29 CFR 1910 by adding the following addition and revision:

1910.20 (b) "Qualified Professional" means any person trained in the field of industrial hygiene, toxicology, epidemiology, nursing, medicine or health physics.

1910.20 (d) Availability of records. Delete the word designee and insert "A designated qualified professional."

(11) 29 CFR 1910.106(a)(3) shall read as follows:

"The term automotive service station, or service station, shall mean that portion of property where flammable or combustible liquids used as motor fuel are stored and dispensed from fixed equipment and into the fuel tanks of motor vehicles and shall include any facilities available for the sale and servicing of tires, batteries, accessories and for minor automotive maintenance work and shall also include private stations not accessible or open to the public such as those used by commercial, industrial or governmental establishments. This section shall not apply to agriculture."

(12) Amend 29 CFR 1910.217 Mechanical Power Press Standards to read:

(a) "1910.217(b)(8)(iv) All a.c. control circuits and solenoid coils shall be powered by not more than a nominal 120-volt a.c. supply obtained from a transformer with an isolated secondary."

(b) 1910.217(d)(3), (d)(5), (d)(9)(i) The references to paragraph (b) shall be changed to paragraph (c).

(13) 29 CFR 1910.1025 "Occupational Exposure to Lead" shall be amended as follows:

(a) Add Appendices A, B, and C which appeared in the Federal Register Volume 44, Number 206, October 23, 1979, hereby adopted by reference, copy attached hereto.

(b) Paragraph (a)(2) shall read: "This section does not apply to the Construction Industry or to Agricultural operations covered by 29 CFR 1928."

(14) Subparagraph 29 CFR 1910.23(a)(7) shall be amended to read as follows:

"Every temporary or permanent floor opening shall have standard railings, or shall be constantly attended by someone."

(15) Subparagraph 29 CFR 1910.252(a)(6)(iv)(d)(2) shall be corrected to read as follows:

"Wiring and electrical equipment in compressor or booster pump rooms or enclosures shall conform to the provisions of section 1910.309(a) for Class 1, Division 2 locations."

DENNIS P. CARRIGAN, Acting Commissioner

ADOPTED: January 24, 1980

APPROVED: H. FOSTER PETTIT, Secretary

RECEIVED BY LRC: February 11, 1980 at 11:45 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Executive Director, Kentucky Department of Labor, Occupational Safety and Health Program, U.S. 127 South, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Labor
Occupational Safety and Health
(Proposed Amendment)

803 KAR 2:030. Adoption of 29 CFR Part 1926.

RELATES TO: KRS Chapter 338

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules, regulations, and standards. Express authority to adopt by reference established federal standards and national consensus standards is also given to the board. The following regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of construction.

Section 1. The Occupational Safety and Health Standards Board hereby adopts 29 CFR Part 1926, the Occupational Safety and Health Standards for the Construction Industry, published by the Commerce Clearing House, Inc., Chicago, Illinois 60646, in the March 1979 Edition, Copyright Date 1979, These standards are hereby adopted by reference with the following additions, exceptions, and deletions:

(1) 29 CFR Part 1926.1 shall read as follows:

The provisions of this regulation adopt and extend the applicability of established federal standards contained in 29 CFR Part 1926 to all employers, employees, and places of employment throughout the Commonwealth except those excluded in KRS 338.021."

(2) 29 CFR 1926.100 shall read as follows:

(a) Hard hats conforming to specifications of the American National Standards Institute, safety requirements for industrial head protection Z89.1 (1971) shall be worn by all employees at all times while engaged in the type of work covered by the scope of this safety standard.

(b) Helmets for the head protection of employees exposed to high voltage electrical shock and burns shall meet the specifications contained in American National Institute Z89.2 (1971).

(3) 29 CFR 1926.552(b)(8) of the paragraph on "Material hoists" shall read as follows: All material hoists shall conform to the requirements of ANSI A10.5-1969, Safety Requirements for Material Hoists, with the exception that material hoists manufactured prior to January 1, 1970 may be used with a drum pitch diameter at least eighteen (18) times the nominal rope diameter provided the hoisting wire rope is at least equal in flexibility to 6 x 37 classification wire rope.

(4) 29 CFR 1926.451(a)(4) shall read as follows: Guardrails and toeboards shall be installed on all open sides and ends of platforms more than ten (10) feet above the ground or floor, except needle beam scaffolds and floats (see paragraphs (p) and (w) of this section). Toeboards shall not be required on the loading side of platforms which are loaded by means of a high lift tractor or fork truck provided that employees are prohibited from entering the area beneath the scaffolding where they could be exposed to objects which might fall from the scaffolding. Scaffolds four (4) to ten (10) feet in height, having a minimum horizontal dimension in either direction of less than forty-five (45) inches, shall have standard guardrails installed on all open sides and ends of the platform.

(5) 29 CFR 1926.400(h)(3)(i), (vii) shall read: "shall be readily available for inspection."

(6) The following paragraphs of 29 CFR 1926, Subpart U, Blasting and the Use of Explosives, which were previously adopted by reference, are hereby revised and shall read as follows:

(a) 1926.900(k)(3)(i) The prominent display of adequate signs warning against the use of mobile radio transmitters, on all roads within 1,000 feet of blasting operations. Whenever adherence to this 1,000 foot distance would create an operational handicap this distance may be modified so long as the modification is adequately designed in compliance with .900(k)(5) to prevent any premature firing of electric blasting caps.

(b) 1926.900(k)(4) Mobile radio transmitters which are less than 100 feet away from electric blasting caps, in other than original containers, may be left "on" for receiving purposes but may only be used to transmit if in compliance with .900(k)(5).

(c) 1926.900(p) The use of black powder shall be prohibited except when a desired result cannot be obtained with another type of explosive, such as in quarrying certain types of dimension stone.

(d) 1926.900(r) All electric blasts shall be fired with an electric blasting machine or properly designed electric power source, and in accordance with the provisions of subsection .906(a) and (r).

(e) 1926.902(d) Explosives, blasting agents, and blasting supplies shall not be transported with other materials or cargoes. Explosives or blasting agents shall be transported in separate vehicles from detonators unless separated by four (4) inches of hardwood or a type 2 outdoor or type 3 magazine. (Ref. 26 CFR 181, Commerce in Explosives.)

(f) 1926.903(o) Deleted.

(g) 1926.905(h) Machines and all tools not used for drilling, loading, and covering the blast shall be removed from the immediate location of holes before explosives are delivered.

(h) 1926.905(i) No activity of any nature other than that which is required for blasting shall be permitted in a blast area.

(i) 1926.905(k) Holes shall be checked prior to loading to determine depth and conditions. Holes shall not be drilled where there is a danger of intersecting a charged or misfired hole.

(j) 1926.905(n) In underground blasting, explosives in Fume Class I, as set forth by the Institute of the Makers of Explosives, shall be used; however, Fume Class I explosives are not required when adequate ventilation is provided and the workings are abandoned for a period of time sufficient to allow dissipation of all fumes.

(k) 1926.906(p) The blaster shall be in charge of the blasting machines, and no other person shall connect the leading wires to the machine except under the direction of the blaster.

(l) 1926.906(q) Blasters, when testing circuits to charged holes, shall use only blasting galvanometers equipped with a silver chloride cell especially designed for this purpose or blasters multimeters approved by M.E.S.A. under 30 CFR 18.68.

(m) 1926.906(s) Leading wires shall remain shorted and not be connected to the blasting machine or other source of current until the charge is to be fired.

(n) 1926.907(a) The use of a fuse that has been hammered or injured in any way shall be forbidden.

(o) 1926.910(b) Sufficient time shall be allowed, not less than fifteen (15) minutes in tunnels, for the smoke and

fumes to leave the blasted area before returning to the shot. An inspection of the area and the surrounding rubble shall be made by the blaster to determine if all charges have been exploded before employees are allowed to return to the operation.

(7) Revoke paragraph "514—Warning Device" of ANSI B56.1—1969—Safety Standards for Powered Industrial Trucks and adopt paragraph "512—Warning Device" of ANSI B56.1—1975—Low Lift and High Lift Trucks for standard reference as specified in 29 CFR 1926.602(c)(1)(vi) effective July 1, 1979.

(8) 29 CFR 1926.200(g)(2), .201(a)(2) and .202 shall be amended to require signs, signaling and barricades to conform to specifications as set forth in ANSI D6.1 "Manual of Uniform Traffic Control Devices for Streets and Highways" (1978 Edition).

(9) Amend subparagraph 1926.950(c)(1)(i) to read as follows:

"The employee is insulated or guarded from the energized part. Insulating gloves, as well as insulating sleeves when necessary, rated for the voltage involved shall be considered insulation of the employee from the energized part, or . . ."

DENNIS P. CARRIGAN, Acting Commissioner

ADOPTED: January 24, 1980

APPROVED: H. FOSTER PETTIT, Secretary

RECEIVED BY LRC: February 11, 1980 at 11:45 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Executive Director, Kentucky Department of Labor, Occupational Safety and Health Program, U.S. 127 South, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Kentucky Harness Racing Commission
(Proposed Amendment)

811 KAR 1:030. Eligibility and classification.

RELATES TO: KRS 230.630(1), (3)

PURSUANT TO: KRS 13.082, 230.630(3),(4),(7)

NECESSITY AND FUNCTION: To regulate conditions under which harness racing shall be conducted in Kentucky. The function of this regulation is to set out the eligibility and classification of horses for races and medical tests required.

Section 1. Eligibility Certificate. (1) There shall be an automatic fine of ten dollars (\$10) on the owner if a horse is declared in without first possessing a current U.S.T.A. or validated C.T.A. eligibility certificate at the gait the horse is declared to race. The track shall automatically be fined five dollars (\$5) for accepting a declaration without an eligibility certificate for the proper gait and a track may refuse to accept any declaration without the eligibility certificate for the proper gait first being presented. Telegraphic or telephone declarations may be sent and accepted without penalty, provided the declarer furnished adequate program information but the eligibility certificate must be presented when the horse arrives at the track before he races, or the above fines will be imposed.

(2) The race secretary shall check each certificate and certify to the judges as to the eligibility of all the horses.

Section 2. Leased Horses. Any horse under lease must race in the name of the lessee and a copy of such lease must be filed with the Kentucky Harness Racing Commission. No horse shall race under lease without an eligibility certificate issued by the United States Trotting Association in the name of the lessee and unless both lessor and lessee are current members of the commission in good standing. Persons violating this rule may be fined, suspended or expelled.

Section 3. Sale or Lease During Current Year. When a horse is sold or leased after an eligibility certificate is issued for the current year, the seller or his authorized agent shall endorse the eligibility certificate to the new owner or lessee who may use it providing he immediately sends the registration certificate to the United States Trotting Association for a transfer or sends the United States Trotting Association a copy of the lease, the eligibility certificate following the horse. If the eligibility certificate is not endorsed to him, the new owner or lessee must apply to the United States Trotting Association for an eligibility certificate.

Section 4. Information Required From Horses Racing at Canadian Tracks. Prior to the declaration, owners of horses having Canadian eligibility certificates shall furnish the racing secretary with a Canadian eligibility certificate completely filled out for the current year, which has a certificate of validation attached thereto.

Section 5. Tampering With Eligibility Certificates. Persons tampering with eligibility certificates may be fined, suspended or expelled and winnings after such tampering may be ordered forfeited.

Section 6. Denial of Eligibility Certificate. An eligibility certificate may be denied to any person refusing to permit his horse to be tattooed.

Section 7. No eligibility certificate will be issued on a horse coming from a country other than Canada unless the following information certified by the trotting association or governing body of that country from which the horse comes, is furnished:

(1) The number of starts during the preceding year, together with the number of firsts, seconds and thirds for each horse, and the total amount of money won during this period.

(2) The number of races in which the horse has started during the current year, together with the number of firsts, seconds and thirds for each horse and the money won during this period.

(3) A detailed list of the last six (6) starts giving the date, place, track condition, post position or handicap, if it was a handicap race, distance of the race, his position at the finish, the time of the race, the driver's name and the first three (3) horses in the race.

Section 8. Registration of Standard and Non-Standard Bred Horses. All foals of 1937 and thereafter shall be registered in current ownership either as standard or non-standard with the United States Trotting Association. If registration is properly applied for and all fees paid, an eligibility certificate for one (1) year may be issued and marked "registration applied for."

Section 9. Racing Season. For purposes of eligibility, a racing season or racing year shall be the calendar year. In recording winnings, gross winnings will be used and odd cents will be dropped and disregarded.

Section 10. Time Bars. No time records or bars shall be used as an element of eligibility.

Section 11. Date When Eligibility is Determined. (1) Horses must be eligible when entries close but winnings on closing date of eligibility shall not be considered.

(2) In mixed races, trotting and pacing, a horse must be eligible to the class at the gait at which it is stated in the entry the horse will perform.

Section 12. Conflicting Conditions. In the event there are conflicting published conditions and neither is withdrawn by the track, the more favorable to the nominator shall govern.

Section 13. (1) Standards for Overnight Events. The race secretary should prescribe standards to determine whether a horse is qualified to race in overnight events at a meeting. The standards shall be posted at a place in which declarations are made and printed on all condition and qualifying sheets.

(2) Where time standards are established at a meeting for both trotters and pacers, trotters shall be given a minimum of two (2) seconds allowance in relation to pacers.

Section 14. Posting of Overnight Conditions. (1) Conditions for overnight events must be posted at least eighteen (18) hours before entries close at meetings other than extended pari-mutuel meetings.

(2) At extended pari-mutuel meetings, condition books will be prepared and races may be divided or substituted races may be used only where regularly scheduled races fail to fill, except where they race less than five (5) days a week. Such books containing at least three (3) days racing programs will be available to horsemen at least twenty-four (24) hours prior to closing declarations on any race program contained therein. *When published the conditions must be clearly stated and not printed as TBA—To Be Announced.*

(3) The race secretary shall forward copies of each condition book and overnight sheet to the commission office as soon as they are available to the horsemen.

Section 15. Types of Races to be Offered. (1) In presenting a program of racing, the racing secretary shall use exclusively the following types of races:

- (a) Stakes and futurities.
- (b) Early closing and late closing events.
- (c) Conditioned races.
- (d) Claiming races.

(e) Preferred races limited to the fastest horses at the meeting. These may be free-for-all races, JFA, or invitationals. Horses to be used in such races shall be posted in the race secretary's office and listed with the presiding judge. Horses so listed shall not be eligible for conditioned overnight races unless the conditions specifically include horses on the preferred list. Twelve (12) such races may be conducted during a six (6) day period of racing at tracks distributing more than \$100,000 in overnight purses during such period and not more than ten (10) such races shall be conducted at other tracks during a six (6) day period of rac-

ing, provided that at least two (2) of these races are for three (3) year olds, four (4) year olds, or combined three (3) and four (4) year olds. At tracks which race less than five (5) days per week, not more than ten (10) such races shall be conducted during a six (6) day period. Purses offered for such races shall be at least fifteen (15) percent higher than the highest purse offered for a conditioned race programmed the same racing week.

(2) No two (2) year old or three (3) year old will be eligible to be placed on the preferred or invitational list to race against older horses until it has won seven (7) races unless requested by the owner or authorized agent. The owner or authorized agent may withdraw such request at his discretion.

(3) Where a meeting is in progress in December and continues in January of the subsequent year, races and earnings won at that meeting may be computed in determining whether a horse may be placed on the preferred list.

Section 16. Limitation on Conditions. Conditions shall not be written in such a way that any horse is deprived of an opportunity to race in normal preference cycles. Where the word "preferred" is used in a condition it shall not supersede date preference. Not more than two (2) also eligible conditions shall be used in writing the conditions for any overnight event, nor may any multiple conditions be used.

Section 17. Dashes and Heats. Any dash or heat shall be considered as a separate race for the purposes of conditioned racing.

Section 18. Named Races. Named races are not permitted except for preferred races for the fastest horses at a meeting as set forth in Section 15(1)(e) above and invitational two (2), three (3) or four (4) year old races with a purse at least fifteen (15) percent higher than the highest purse offered for a conditioned race programmed the same racing week.

Section 19. Selection or Drawing of Horses. For all overnight events, starters and also eligibles shall be drawn by lot from those properly declared in, except that a race secretary must establish a preference system for races as provided for in 811 KAR 1:055, Section 5. However, where necessary to fill a card, not more than one (1) race per day may be divided into not more than two (2) divisions after preference has been applied and the divisions may be selected by the racing secretary. For all other overnight races that are divided the division must be by lot unless the conditions provide for a division based on performance, earnings or sex.

Section 20. Posting Requirements. (1) Names of all horses at the track ready to race shall be posted by gait in the declaration room, together with all the pertinent information concerning such horse which may be required to determine eligibility of such horse to condition races offered at the track. There shall be a separate posting of two (2), three (3) and four (4) year olds.

(2) Supplemental purse payments made by a track after the termination of a meeting will be charged and credited to the winnings of any horse at the end of the racing year in which they are distributed, and will appear on the eligibility certificate issued for the subsequent year. Such distribution shall not affect the current eligibility until placed on the next eligibility certificate.

Section 21. Rejection of Declaration. (1) The racing secretary may reject the declaration on any horse whose eligibility certificate was not in his possession on the date the condition book is published.

(2) The racing secretary may reject the declaration on any horse whose past performance indicates that he would be below the competitive level of other horses declared, provided the rejection does not result in a race being cancelled.

Section 22. Substitute and Divided Races. (1) Substitute races may be provided for each day's program and shall be so designated. Entries in races not filling shall be posted. A substitute race or a race divided into two (2) divisions shall be used only if regularly scheduled races fail to fill.

(2) If a regular race fills it shall be raced on the day it was offered.

(3) Overnight events and substitutes shall not be carried to the next racing day.

Section 23. Opportunities to Race. A fair and reasonable racing opportunity shall be afforded both trotters and pacers in reasonable proportion from those available and qualified to race. Claiming races may be carded to the proportion of each week's racing program as the number of claiming authorizations on file with the racing secretary bears to the total number of horses on the grounds which are qualified and available for racing.

Section 24. Qualifying Races. A horse qualifying in a qualifying race for which no purse is offered shall not be deprived by reason of such performance of his right to start in any conditioned race.

Section 25. Definition of "Start." The definition of the word "start" in any type of condition unless specifically so stated will include only those performances in a purse race. Qualifying and matinee races are excluded.

Section 26. Sandwiching Races. Not more than five (5) races may be sandwiched.

Section 27. Equine Infectious Anemia. (1) When it is determined that a horse is infected with, and/or is a carrier of Equine Infectious Anemia by means of the "Gel Immuno-Diffusion" method developed by Dr. Leroy Coggins, hereinafter known as the "Coggins Test" and conducted by an approved laboratory, such horse shall, thereafter, be prohibited from racing and/or being stabled at a licensed track.

(2) A negative "Coggins Test Certificate" properly identifying the horse by tattoo number issued by an approved laboratory, certifying that within the prior six (6) months the horse has been tested negative shall be presented to a track representative before any horse will be allowed entrance to, or allowed to remain upon, the grounds of a track conducting meetings.

(3) Declarations shall not be accepted for any horse to any race unless the declarer has furnished the race secretary with a negative "Coggins Test" written certificate for that horse, as required by subsection (2) above.

(4) No eligibility or validation certificate shall be issued for a horse from which a positive "Coggins Test" has been reported. If an eligibility or validation certificate is issued and it is determined thereafter that the horse for which the certificate has been issued has Equine Infectious Anemia

and/or is a carrier thereof, the certificate must be returned immediately by the holder to the United States Trotting Association.

CARL B. LARSEN, Deputy Commissioner

ADOPTED: December 7, 1979

APPROVED: H. FOSTER PETTIT, Secretary

RECEIVED BY LRC: February 15, 1980 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Betty Burton, Acting Executive Secretary, Kentucky Harness Racing Commission, 369 Waller Avenue, Lexington, Kentucky 40504.

PUBLIC PROTECTION AND REGULATION CABINET
Kentucky Harness Racing Commission
(Proposed Amendment)

811 KAR 1:035. Claiming races.

RELATES TO: KRS 230.630(1),(3); 230.640

PURSUANT TO: KRS 13.082, 230.630(3),(4),(7)

NECESSITY AND FUNCTION: To regulate conditions under which harness racing shall be conducted in Kentucky. The function of this regulation is to regulate claiming races.

Section 1. Who May Claim. A horse entered in a claiming race may be claimed for its entered price by a licensed horse owner who has a horse programmed to start in a pari-mutuel race at that meeting, or by a licensed horse owner who has received a claim certificate from the commission, or by any person who has qualified for a license as a horse owner and who has received a claim certificate from the commission. An authorized agent may claim for a qualified owner. To qualify for a license as an owner, the applicant must have a current United States Trotting Association membership as an owner or membership as an associate-member. Any person seeking to effect a false claim by inducing another to claim a horse for him will be subject to the penalties provided by Section 9 herein.

Section 2. Prohibitions. (1) No person shall claim his own horse nor shall he claim a horse trained or driven by him.

(2) No person shall claim more than one (1) horse in a race.

(3) No qualified owner or his agent shall claim a horse for another person.

(4) No owner shall cause his horse to be claimed directly or indirectly for his own account.

(5) No person shall offer, or enter into an agreement, to claim or not to claim or attempt to prevent another person from claiming any horse in a claiming race.

(6) No person shall enter a horse against which there is a mortgage, bill of sale, or lien of any kind, unless the written consent of the holder thereof shall be filed with the clerk of the course of the track conducting such claiming race.

[(7) Any entry in a claiming race may be entered in a subsequent race and if claimed, the successful claimant shall have the option to scratch from the following race.]

Section 3. Claiming Procedure. (1) Owner's credit. The owner must have to his credit with the track giving the race

an amount equivalent to the specified claiming price plus the existing Kentucky sales tax and requisite fees for transfer of registration. By accepting the claim, the racetrack assumes responsibility for payment to the owner of the horse claimed. The money due for a claimed horse is to be paid to the owner losing said horse within forty-eight (48) hours (Sundays excepted) by the track, provided that said horse has a current test complying with subsection (14) of this section.

(2) Owner's consent. No declaration may be accepted unless written permission of the owner is filed with the race secretary at the time of declaration.

(3) Program. The claiming price shall be printed on the program and all claims shall be for the amount so designated and any horse entered in a claiming race may be claimed for the designated amount.

(4) Claim box. All claims shall be in writing, sealed and deposited at least fifteen (15) minutes before the time originally scheduled for the race to begin in a locked box provided for this purpose by the association.

(5) Opening of claim box. No official shall open said box or give any information on claims filed until after the race. Immediately after the race, the claim box shall be opened and the claim, if any, examined by the judges.

(6) Multiple claims on same horses. Should more than one (1) claim be filed for the same horse, the owner shall be determined by lot by the judges.

(7) Delivery of claimed horse. A horse claimed shall be delivered immediately by the original owner or his trainer to the successful claimant upon authorization of the presiding judge. The horse's halter must accompany the horse. Altering or removing the horse's shoes will be considered a violation of this rule. The hopple measurements of a claimed horse must be made available to the successful claimant by the paddock judge.

(8) Refusal to deliver claimed horse. Any person who refuses to deliver a horse legally claimed out of a claiming race shall be suspended together with the horse until delivery is made.

(9) Vesting of title to claimed horse. Every horse claimed shall race in all heats or dashes of the event in the interest and for the account of the owner who declared it in the event, but title to the claimed horse shall be vested in the successful claimant from the time the word "go" is given in the first heat or dash, and said successful claimant shall become the owner of the horse whether it be alive or dead or sound or unsound, or injured during the race or after it; provided, however, that the final vesting of title to a claimed horse is subject to the conditions and provisions of subsection (14) of this section.

(10) Affidavit by claimant. The judges may require any person making a claim for a horse to make affidavit that he is claiming said horse for his own account or as authorized agent and not for any other person. Any person making such affidavit willfully and falsely shall be subject to punishment as hereinafter provided.

(11) Penalty for thirty (30) days. For a period of thirty (30) days after the claim, a claimed horse shall not start in a race in which the claiming price is less than the price at which it was claimed. The day claimed shall not count, but the following calendar day shall be the first day and the horse may be entered whenever necessary so that the horse may start on the 31st calendar day following the claim for any claiming price. If a horse is claimed no right, title or interest therein shall be sold or transferred except in a claiming race for a period of thirty (30) days following the date of claiming. Further, such horse shall be required to con-

tinue to race at the track where claimed for a period of thirty (30) days or the balance of the current racing meeting whichever comes first[, unless released by the presiding judge].

(12) Return of claimed horse to owner or stable. No horse claimed out of a claiming race shall be eligible to start in any race in the name or interest of the original owner for thirty (30) days, nor shall such horse remain in the same stable, or under the care or management of the first owner or trainer, or anyone connected therewith unless reclaimed out of another claiming race.

(13) Scratched horse. *A horse scratched from a claiming race is not eligible to be claimed.* [The successful claimant of a horse programmed to start may, at his option, acquire ownership of a claimed horse even though such claimed horse was scratched. The successful claimant must exercise his option by 9:00 a.m. of the day following the claiming race to which the horse was programmed and scratched.]

(14) Blood sample where horse is claimed. No blood sample shall be taken of a horse which has been claimed, if said horse has a valid veterinarian certificate within six (6) months of said claim, which certificate includes the horse's lip tattoo number and which is negative for Equine Infectious Anemia. In the event that said horse does not have said certificate, then a blood sample shall be taken immediately after the race in the paddock by a licensed veterinarian, and the sample identified as being from a claimed horse shall be forwarded within twenty-four (24) hours to an approved laboratory to be tested for Equine Infectious Anemia. Pending the receipt of a negative test for Equine Infectious Anemia the monies paid for the claimed horse shall be held by the track. In the event of a positive test for Equine Infectious Anemia the ownership of the claimed horse shall revert to the owner from whom the horse was claimed and the claiming monies shall be returned to the person or persons who claimed the horse. The cost of the test is to be borne by said owner and the test may be waived by the claimant at his discretion by so indicating on the claiming slip.

Section 4. Subject to the conditions of Section 3(14), the track shall pay the claiming price to the owner at the time the registration certificate is delivered for presentation to the successful claimant and shall withhold and pay the Kentucky sales tax to the Commonwealth as required by law.

Section 5. Claiming Conditions. Whenever possible claiming races shall be written to separate horses five (5) years old and up from young horses and to separate males from females. If sexes are mixed, mares shall be given a ten (10) percent minimum price allowance[.], *provided, however, that there shall be no price allowance given to a spayed mare racing in a claiming race. No allowance for age shall be given. Claiming races for two (2) year-olds may be conditioned. Claiming races for three (3) year-olds may be conditioned.* The lowest claiming class written at a specific meeting may be conditioned.

Section 6. Minimum Price. No claiming race shall be offered permitting claims for less than the minimum purse offered at that time during the same racing week.

Section 7. Determination of Claiming Price. Except as provided in Section 3(11), and except as provided in 811 KAR 1:030, Section 21, no horse owner shall be prohibited

from determining the price for which his horse shall be entered.

Section 8. The current registration certificate of all horses entered in claiming races must be on file with the racing secretary together with a separate claiming authorization form signed by the registered owner or owners and indicating the minimum amount for which the horse may be entered to be claimed. To facilitate transfer of claimed horses the presiding judge may sign the transfer provided that he then send the registration certificate and claiming authorization to the registrar for transfer.

Section 9. Any person violating any of the provisions of this regulation shall be fined, suspended or expelled.

Section 10. Fraudulent Claim. (1) If the judges determine that the declaration of any horse to a claiming race is fraudulent on the part of the declarer they may void the claim and at the option of the claimant order the horse returned to the person declaring it in.

(2) If the judges determine that any claim of a horse is fraudulent on the part of the person making the claim, they may void the claim and may, at the option of the person declaring it in, return the horse to the person declaring it in.

Section 11. (1) Should any stable be eliminated by sale or removal from the grounds, the right to claim is void. However, when a stable has been eliminated by claiming, the owner so affected shall have the right to claim a horse during the next thirty (30) racing days at any recognized meeting in this state even though all or a portion of the next thirty (30) racing days take place in the following calendar year. The owner or trainer of a stable eliminated by claiming shall get a written statement from the deputy commissioner or his assistant stating the date and place that the said stable was eliminated by claiming. Should such stable acquire a horse before availing itself of the privilege, then the privilege shall be void.

(2) Should any stable be eliminated by fire or other hazards, such stable shall have claiming privilege under the conditions indicated for the stable eliminated by claiming, at the discretion of the deputy commissioner or his assistant.

CARL B. LARSEN, Deputy Commissioner

ADOPTED: December 7, 1979

APPROVED: H. FOSTER PETTIT, Secretary

RECEIVED BY LRC: February 15, 1980 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Betty Burton, Acting Executive Secretary, Kentucky Harness Racing Commission, 369 Waller Avenue, Lexington, Kentucky 40504.

PUBLIC PROTECTION AND REGULATION CABINET
Kentucky Harness Racing Commission
(Proposed Amendment)

811 KAR 1:055. Declaration to start; drawing horses.

RELATES TO: KRS 230.630(1), (3), 230.640

PURSUANT TO: KRS 13.082, 230.630(3), (4), (7)

NECESSITY AND FUNCTION: To regulate conditions under which harness racing shall be conducted in

Kentucky. The function of this regulation is to regulate declarations to start; drawing horses.

Section 1. Declaration. (1) At extended pari-mutuel meetings. Unless otherwise specified in the conditions, or approved in writing by the commission three (3) days prior to the day of the race omitting Sundays, the declaration time shall be 9 a.m.

(2) Declaration time at other meetings. At all other meetings starters must be declared in at 10 a.m. unless another time is specified in the conditions.

(3) No horse shall be declared to start in more than one (1) race on any one (1) racing day.

(4) Timed used. In order to avoid confusion and misunderstanding, the time when declarations close will be considered to be standard time, except the time in use at an extended pari-mutuel meeting shall govern that meeting.

(5) Declaration box. The management shall provide a locked box with an aperture through which declarations shall be deposited.

(6) Responsibility for declaration box. The presiding judge shall be in charge of the declaration box.

(7) Search for declarations by presiding judge before opening box. Just prior to opening of the box at extended pari-mutuel meetings where futurities, stakes, early closing or late closing events are on the program, the presiding judge shall check with the race secretary to ascertain if any declarations by mail, telegraph, or otherwise, are in the office and not deposited in the entry box, and he shall see that they are declared and drawn in the proper event.

(8) Opening of declaration box. At the time specified the presiding judge shall unlock the box, assort the declarations found therein and immediately draw the positions in the presence of such owners or their representatives, as may appear.

(9) Entry box and drawing of horses at extended pari-mutuel meetings. The entry box shall be opened by the presiding judge at the advertised time and the presiding judge will be responsible to see that at least one (1) horseman or an official representative of the horsemen is present. No owner or agent for a horse with a declaration in the entry box shall be denied the privilege of being present. Under the supervision of the presiding judge, all entries shall be listed, the eligibility verified, preference ascertained, starters selected and post positions drawn. If it is necessary to reopen any race, public announcement shall be made at least twice and the box reopened to a definite time.

(10) Drawing of post positions for second heat in races of more than one (1) dash or heat at pari-mutuel meetings. In races of a duration of more than one (1) dash or heat at pari-mutuel meetings, the judges may draw post positions from the stand for succeeding dashes or heats.

(11) Declarations by mail, telegraph or telephone. Declarations by mail, telegraph, or telephone actually received and evidence of which is deposited in the box before the time specified to declare in, shall be drawn in the same manner as the others. Such drawings shall be final. Mail, telephone and telegraph declarations must state the name and address of the owner or lessee; the name, color, sex, sire and dam of the horse; the name of the driver and his colors; the date and place of last start; a current summary, including the number of starts, first, seconds, thirds, earnings and best winning time for the current year; and the event or events in which the horse is to be entered.

(12) Effect of failure to declare on time. When a track requires a horse to be declared at a stated time, failure to

declare as required shall be considered a withdrawal from the event.

(13) Drawings of horses after declaration. After declaration to start has been made no horse shall be drawn except by permission of the judges. A fine, not to exceed \$500, or suspension, may be imposed for drawing a horse without permission, the penalty to apply to both the horse and the party who violates the regulation.

(14) Horses omitted through error. Such drawings shall be final unless there is conclusive evidence that a horse properly declared, other than by telephone, was omitted from the race through error of a track or its agent or employee in which event the horse may be added to this race but given the outside post position. This shall not apply at pari-mutuel meetings unless the error is discovered prior to the publication of the official program.

Section 2. Qualifying Races. At all extended pari-mutuel meetings declarations for overnight events shall be governed by the following:

(1) Within two (2) weeks of being declared in, a horse that has not raced previously at the gait chosen must go a qualifying race under the supervision of a judge holding a presiding or associate judge's license for pari-mutuel meetings and acquire at least one (1) charted line by a licensed charter. In order to provide complete and accurate chart information on time and beaten lengths a standard photo finish shall be in use.

(2) A horse that does not show a charted line for the previous season, or a charted line within its last six (6) starts, must go a qualifying race as set forth in subsection (1). Uncharted races contested in heats or more than one (1) dash and consolidated according to subsection (4) will be considered one (1) start.

(3) A horse that has not started at a charted meeting by August 1 of a season must go a qualifying race as set forth in subsection (1).

(4) When a horse has raced at a charted meeting during the current season, then gone to meetings where the races are not charted, the information from the uncharted races may be summarized, including each start, and consolidated in favor of charted lines and the requirements of subsection (2) would then not apply.

(5) The consolidated line shall carry date, place, time, driver, finish, track condition and distance if race is not at one (1) mile.

(6) The judges may require any horse that has been on the steward's list to go a qualifying race. If a horse has raced in individual time not meeting the qualifying standards for that class of horse, he may be required to go a qualifying race.

(7) The judges may permit a fast horse to qualify by means of a timed workout consistent with the time of the races in which he will compete in the event adequate competition is not available for a qualifying race. *However, a horse that is on the steward's list for breaks or refusing to come to the gate must qualify in a qualifying race.*

(8) To enable a horse to qualify, qualifying races should be held at least one (1) full week prior to the opening of any meeting of ten (10) days or more and shall be scheduled at least twice a week. Qualifying races shall also be scheduled twice a week during the meeting and through the last week of the meeting.

(9) Where a race is conducted for the purpose of qualifying drivers and not horses, the race need not be charted, timed or recorded. This subsection is not applicable to races qualifying both drivers and horses.

(10) If a horse takes a win race record in a qualifying race, such record must be prefaced with the letter "Q" wherever it appears, except in a case where, immediately prior to or following the race, the horse taking the record has been submitted to an approved urine, saliva or blood test. It will be the responsibility of the presiding judge to report the test on the judges' sheet.

(11) Any horse that fails to race at a charted meeting within thirty (30) days after having started in a current year, shall start in a charted race or a qualifying race and meet the standards of the meeting before being allowed to start in a race with pari-mutuel wagering.

Section 3. Coupled Entries. (1) When the starters in a race include two (2) or more horses owned or trained by the same person, or trained in the same stable or by the same management, they shall be coupled as an "entry" and a wager on one (1) horse in the "entry" shall be a wager on all horses in the "entry." Provided, however, that when a trainer enters two (2) or more horses in a stake, early closing, futurity, free-for-all or other special event under bona fide separate ownerships, the said horses may, at the request of the association and with the approval of the commission, be permitted to race as separate betting entries. The fact that such horses are trained by the same person shall be indicated prominently in the program. If the race is split in two (2) or more divisions, horses in an "entry" shall be seeded insofar as possible, first by owners, then by trainers, then by stables; but the divisions in which they compete and their post positions shall be drawn by lot. The above provision shall also apply to elimination heats.

(2) The presiding judge shall be responsible for coupling horses. In addition to the foregoing, horses separately owned or trained may be coupled as an entry where it is necessary to do so to protect the public interest for the purpose of pari-mutuel wagering only. However, where this is done, entries may not be rejected.

(3) If an owner, lessor, or lessee has a vested interest in another horse in the same race, it shall constitute an entry.

Section 4. Also Eligibles. No more than two (2) horses may be drawn as also eligibles for a race and their positions shall be drawn along with the starters in the race. In the event one (1) or more horses are excused by the judges, the also eligible horse or horses shall race and take the post position drawn by the horse that it replaces, except in handicap races. In handicap races the also eligible horse shall take the place of the horse that it replaces in the event that the handicap is the same. In the event the handicap is different, the also eligible horse shall take the position on the outside of horses with a similar handicap. No horse may be added to a race as an also eligible unless the horse was drawn as such at the time declarations closed. No horse may be barred from a race to which it is otherwise eligible by reason of its preference due to the fact that it has been drawn as an also eligible. A horse moved into the race from the also eligible list cannot be drawn except by permission of the judges, but the owner or trainer of such a horse shall be notified that the horse is to race and it shall be posted at the race secretary's office. All horses on the also eligible list and not moved into race by 9 a.m. on the day of the race shall be released.

Section 5. Preference. (1) Preference shall be given in all overnight events according to a horse's last previous purse race during the current year. The preference date on a horse that has drawn to race and been scratched is the date of the race from which he was scratched.

(2) When a horse is racing for the first time in the current year, the date of the first declaration shall be considered its last race date, and preference applied accordingly.

(3) If an error has been made in determining or posting a preference date and said error deprives an eligible horse of an opportunity to race, the trainer involved shall report the error to the racing secretary within one (1) hour of the announcement of the draw. If in fact a preference date error has occurred, the race will be redrawn.

Section 6. Steward's List. (1) A horse that is unfit to race because he is dangerous, unmanageable, sick, lame, unable to show a performance to qualify for races at the meeting, or otherwise unfit to race at the meeting may be placed on a "steward's list" by the presiding judge, and declarations on said horse shall be refused, but the owner or trainer shall be notified in writing of such action and the reason as set forth above shall be clearly stated on the notice. When any horse is placed on the steward's list, the clerk of the course shall make a note on the eligibility certificate of such horse, showing the date the horse was put on the steward's list, the reason therefor and the date of removal if the horse has been removed.

(2) No presiding judge or other official at a non-extended meeting shall have the power to remove from the steward's list and accept as an entry any horse which has been placed on a steward's list and not subsequently removed therefrom for the reason that he is a dangerous or unmanageable horse. Such meetings may refuse declarations on any horse that has been placed on the steward's list and has not been removed therefrom.

(3) A horse scratched from a race because of lameness or sickness may not enter another race for at least three (3) days from the date of the scratch.

Section 7. Driver. Declarations shall state who shall drive the horse and give the driver's colors. Drivers may be changed until 9 a.m. of the day preceding the race, after which no driver may be changed without permission of the judges and for good cause. When a nominator starts two (2) or more horses, the judges shall approve or disapprove the second and third drivers.

Section 8. (1) It shall be the duty of the presiding judge to call a meeting of all horsemen on the grounds before the opening of an extended pari-mutuel meeting for the purpose of their electing a member and an alternate to represent them on matters relating to the withdrawal of horses due to bad track or weather conditions.

(2) In case of questionable track conditions due to weather, the presiding judge shall call a meeting consisting of an agent of the track member, the duly elected representative of the horsemen and himself.

(3) Upon unanimous decision by this committee of three (3) that track conditions are safe for racing, no unpermitted withdrawals may be made.

(4) Any decision other than unanimous by this committee will allow any entrant to scratch his horse or horses after posting ten (10) percent of the purse to be raced for. In the event sufficient withdrawals are received to cause the field to be less than six (6), then the track member shall have the right of postponement of an early closing event or stake and cancellation of an overnight event.

(5) Said money posted shall be forwarded to the commission and shall be retained as a fine, or refunded to the

individual upon the decision of the commission as to whether the withdrawal was for good cause.

(6) The above procedure applies only to the withdrawal of horses that have been properly declared in and does not relate to postponement which is covered in 811 KAR 1:060.

CARL B. LARSEN, Deputy Commissioner

ADOPTED: January 18, 1980

APPROVED: H. FOSTER PETTIT, Secretary

RECEIVED BY LRC: February 15, 1980 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Betty Burton, Acting Executive Secretary, Kentucky Harness Racing Commission, 369 Waller Avenue, Lexington, Kentucky 40504.

PUBLIC PROTECTION AND REGULATION CABINET
Kentucky Harness Racing Commission
(Proposed Amendment)

811 KAR 1:070. Licensing; owners, drivers, trainers, grooms and agents.

RELATES TO: KRS 230.630(1),(3); 230.640; 230.700; 230.710

PURSUANT TO: KRS 13.082, 230.630(3),(4),(7)

NECESSITY AND FUNCTION: To regulate conditions under which harness racing shall be conducted in Kentucky. The function of this regulation is to set out the requirements of and to provide for the licensing of owners, trainers, drivers, grooms and agents.

Section 1. Owners. Every person owning a horse that is entered at a race meeting licensed by the commission shall be required to obtain a license from the commission and the United States Trotting Association. Said application shall be on forms provided by the commission and shall be filed at any commission office. Such license shall be presented to the clerk of the course at the time said horse is entered in a race.

Section 2. Driver's Application for License. Every person desiring to drive a harness horse at a race meeting licensed by the commission shall be required to obtain a license from the commission and the United States Trotting Association. Such application shall be on forms provided by the commission. Applications may be filed at any commission office. Such license shall be presented to the clerk of course before driving. Pending a valid license by the United States Trotting Association, the commission may, at its discretion, issue a provisional or full driver's license to those who qualify as hereinafter set out.

Section 3. Qualification for a Provisional and/or Full Driver's License. (1) Every applicant for a provisional license to drive a harness horse at a race meeting licensed by the commission in addition to any other requirements mentioned herein shall:

(a) Submit evidence of good moral character.

(b) Submit evidence of his ability to drive in a race and, if he is a new applicant, this must include the equivalent of one (1) year's training experience.

(c) Be at least eighteen (18) years of age.

(d) Furnish a completed application form.

(e) Submit satisfactory evidence of an eye examination indicating $20/40$ corrected vision in both eyes, or if one eye blind, at least $20/30$ corrected vision in the other eye; and, when requested, submit evidence of physical and mental ability and/or submit to a physical examination.

(f) No person sixty (60) years of age or older who has never held any type of driver's license previously shall be issued a driver's license.

(g) When requested, submit a written examination at a designated time and place to determine his qualifications to drive and his knowledge of racing and the rules. In addition, any driver who presently holds a license and wishes to obtain a license in a higher category, who has not previously submitted to such written test, shall be required to take a written test before becoming eligible to obtain a license in a higher category.

(h) No applicant who has previously held any type of driver's license shall be subsequently denied a driver's license solely on the basis of age.

(2) A full license will be granted to an applicant who qualifies for a provisional license and has acquired:

(a) At least one (1) year's driving experience while holding a provisional license from the United States Trotting Association.

(b) Twenty-five (25) satisfactory starts in the calendar year preceding the date of his application at an extended pari-mutuel meeting.

(3) In the event any person is involved in an accident on the track, the commission may order such person to submit to a physical examination and such examination must be completed within thirty (30) days from such request or his license may be suspended until compliance therewith.

(4) All penalties imposed on any driver may be recorded on the reverse side of his commission driver's license by the presiding judge.

(5) The Kentucky Harness Racing Commission reserves the right to require any driver to take a physical examination at any time.

Section 4. Trainers' Application for License. An applicant for a license as trainer shall be licensed by the United States Trotting Association and must be at least eighteen (18) years of age and satisfy the commission that he possesses the necessary qualifications both mental and physical, to perform the duties required. Elements to be considered, among others, shall be character, reputation, temperament, experience, knowledge of the rules of racing and of the duties of a trainer in the preparation, training, entering and managing of horses for racing.

Section 5. Absence of Trainers. When any licensed trainer is absent from a racing meet for more than six (6) days, it shall be the duty of the trainer to appoint and have properly licensed a new trainer of record.

Section 6. Grooms' Application for License. An applicant for a license as a groom must satisfy the commission that he possesses the necessary qualifications, both mental and physical to perform the duties required. Elements to be considered, among others, shall be character, reputation, temperament, experience, knowledge of the rules of racing and of the duties of a groom. No license shall be issued to applicants under sixteen (16) years of age.

Section 7. (1) The holder of a license issued by the United States Trotting Association or a holder of a license issued by the Kentucky Harness Racing Commission for

the prior year, may be presumed to be qualified to receive a license, all others must be tested by the deputy commissioner (supervisor of racing), his assistant, or agent of the commission, at such locations as shall be designated by the commission as to the capability of said applicant for a license to perform the functions required of him. Said tests shall be either in writing or by demonstrations or both and shall be administered in a uniform manner. The cost of said testing shall be borne by the applicant.

(2) A holder of a current qualifying license issued by the United States Trotting Association may be allowed to drive a horse that is already qualified, however, if the horse does not meet the standards of the meeting, the horse shall be placed on the stewards list. If a race is held solely for qualifying drivers, the race may not be charted. A race solely for qualifying drivers must have more than four (4) starters.

Section 8. The following shall constitute disorderly conduct and be reason for a fine, suspension, or revocation of an owner's, driver's, trainer's, or groom's license:

(1) Failure to obey the judges' or other officials' orders that are expressly authorized by the rules of this commission.

(2) Failure to drive when programmed unless excused by the judges.

(3) Drinking intoxicating beverages within four (4) hours of the first post time of the programs on which he is carded to drive.

(4) Appearing in the paddock in an unfit condition to drive.

(5) Fighting.

(6) Assaults.

(7) Offensive and profane language.

(8) Smoking on the track in colors during actual racing hours.

(9) Warming up a horse prior to racing without colors.

(10) Disturbing the peace.

(11) Refusing to take a breath analyzer test when directed by the presiding judge, deputy commissioner (supervisor of racing), or assistant deputy commissioner (assistant supervisor of racing).

Section 9. Colors and Helmet. Drivers must wear distinguishing colors, and shall not be allowed to start in a race or other public performance unless in the opinion of the judges they are properly dressed. No one shall drive during the time when colors are required on a race track unless he is wearing a type of protective helmet, constructed with a hard shell, and containing adequate padding and a chin strap in place.

Section 10. Misconduct in Colors. Any driver wearing colors who shall appear at a betting window or at a bar or in a restaurant dispensing alcoholic beverages shall be fined not to exceed \$100 for each such offense.

Section 11. Driver Change. No driver can, without good and sufficient reasons, decline to be substituted by the judges. Any driver who refuses to be so substituted may be fined or suspended, or both by order of the judges.

Section 12. Amateur Definition. An amateur driver is one who has never accepted any valuable consideration by way of or in lieu of compensation for his services as a trainer or driver during the past ten (10) years.

Section 13. Registered Colors. Drivers holding an "A" license or drivers with a "V" license who formerly held an

"A" license, shall register their colors with the United States Trotting Association. Registered stables or corporations may register their racing colors with the United States Trotting Association.

CARL B. LARSEN, Deputy Commissioner

ADOPTED: December 7, 1979

APPROVED: H. FOSTER PETTIT, Secretary

RECEIVED BY LRC: February 15, 1980 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Betty Burton, Acting Executive Secretary, Kentucky Harness Racing Commission, 369 Waller Avenue, Lexington, Kentucky 40504.

PUBLIC PROTECTION AND REGULATION CABINET
Kentucky Harness Racing Commission
(Proposed Amendment)

811 KAR 1:125. Pari-mutuel rules.

RELATES TO: KRS 230.630(1), (3), 230.640, 230.690, 230.710

PURSUANT TO: KRS 13.082, 230.630(3), (4), (7)

NECESSITY AND FUNCTION: To regulate conditions under which harness racing shall be conducted in Kentucky. The function of this regulation is to provide and regulate pari-mutuel wagering at race meetings.

Section 1. Equipment. (1) The commission considers it desirable for licensees to use vending machines for the sale of pari-mutuel tickets. All licensees will be required to employ the use of totalizator equipment or its equivalent of a type approved by the commission.

(2) The controls necessary to operate the odds board in the infield, relative to the way the horses finish, (if the finish is being contested, if there is a photo, dead heat, time or race) are to be located in the judge's stand and controlled only by the presiding judge, or one associate judge designated to do so.

Section 2. Definitions for Pari-Mutuel Rules. (1) For the purpose of pari-mutuel betting, every heat or dash shall be a separate and distinct race.

(2) Where the term "race" is used throughout the following rules, it shall not be considered to apply as if the term "heat" had been used. Wagering shall be prohibited on more than ten (10) races, heats excluded, during the course of a single racing program, provided that the commission may extend the number of races authorized.

Section 3. Tax. Each day's tax imposed by KRS Chapter 138 shall be remitted to the Kentucky Department of Revenue by the licensee by check or bank draft within twenty-four (24) hours after the close of the racing program. Such remittance shall be accompanied by a tax return executed by the licensee on a form furnished by the Kentucky Department of Revenue. A copy of said form will be filed daily with the commission.

Section 4. Sale of Pari-Mutuel Tickets. (1) Only one (1) method of selling pari-mutuel tickets shall be used for the sale of tickets on individual races during any racing day.

(2) Unless prior commission approval has been obtained no pari-mutuel tickets shall be sold except through regular ticket windows properly designated by signs showing type of tickets sold at that particular window.

(3) No pari-mutuel tickets shall be sold on any race prior to thirty (30) minutes before scheduled off-time of that race, except daily double, perfecta, double perfecta, quinella, double quinella and trifecta tickets may be sold one (1) hour before scheduled off-time except that on stake races whose purse value exceeds \$100,000, tickets may be sold up to sixty (60) hours prior to the scheduled off time with approval of the commission.

(4) Book making or betting other than pari-mutuel betting is strictly prohibited.

(5) No minor shall be allowed to bet and no mutuel employee shall sell or pay a wager to a minor.

(6) All wagering shall stop as soon as the word "go" shall be given by record or by voice of the starter. Vending machines for the sale of pari-mutuel tickets shall be electrically locked by the presiding judge from the judge's stand.

(7) When the sale of pari-mutuel tickets has closed, it shall remain closed until after the race has finished and has been declared official, unless an objection imposes a delay in which case the sale of pari-mutuel tickets for the next succeeding race may be begun without waiting for the race to be declared official.

(8) Without approval of the commission, no pari-mutuel ticket shall be sold for less than two dollars (\$2). Without approval of the commission, no pari-mutuel ticket combining win and place, win and show, or place and show, shall be sold for less than four dollars (\$4). Without approval of the commission, no pari-mutuel ticket combining win, place, and show shall be sold for less than six dollars (\$6). Without approval of the commission, no pari-mutuel tickets for perfecta, double perfecta, quinella or double quinella combinations shall be sold for less than two dollars (\$2).

(9) The method of selling pari-mutuel tickets shall be approved by the commission.

(10) The manager of the pari-mutuel department shall be properly and timely advised by the presiding judge, prior to the beginning of wagering on each race, of the horses that will compete in the race.

(11) At meetings of more than ten (10) days, if less than six (6) interests qualify to start in a race, the manager of the pari-mutuel department, with the consent of the representative of the commission, shall be permitted to prohibit show wagering on that race.

(12) At meetings of more than ten (10) days, if less than five (5) interests qualify horses to start in a race, the said manager, with the consent of the representative of the Kentucky Harness Racing Commission shall be permitted to prohibit both place and show wagering on that race.

(13) At meetings of more than ten (10) days, if less than three (3) interests qualify horses to start in a race, the said manager, with the consent of the representative of the commission shall be permitted to prohibit wagering on that race.

(14) At meetings of more than ten (10) days, the said manager with the consent of the representative of the commission, may prohibit wagering on any particular horse or entry in any race. Such consent shall be sought by the manager of the pari-mutuel department from the representative of the commission. Such exclusions, if consented to by the representative of the commission, shall be clearly indicated on the program or score card or announced and horses excluded shall be numbered so as to in no way infer

that they are coupled in "the field." Horses once excluded from the the betting shall remain excluded during the day or race in which they are scheduled to start.

(15) When more horses representing separate interests are started in a race than the number of post positions on the infield tote board, all horses in excess of a number of interests one (1) less than the total number of post positions on the infield tote board shall be grouped in the betting as the "field."

(16) A refund at cost value shall be made to all holders of a purchased ticket bearing the number of a horse in any race which has been scratched or withdrawn before said horse has become a starter in the race under the rules, unless such horse is part of an entry, and one (1) or more of said entry starts.

Section 5. Payments. (1) Payments due on all wagers shall be made in conformity with well established practice of the pari-mutuel system. The practice is to work in dollars and not in the number of tickets. Money wagered on winning tickets is returned in full plus the profits. In all cases of a winning mutuel pool each licensee must redistribute not less than one dollar and ten cents (\$1.10) on each one dollar (\$1) wagered. *In the event of a minus pool the minimum payoff on each one dollar (\$1.00) wagered shall be one dollar and five cents (\$1.05).* [and two dollars and twenty cents (\$2.20) on each two dollar (\$2) wager.]

(2) At the end of each race, the judges shall advise the manager of the pari-mutuel department by the use of the tote equipment or by telephone of the official placement of the horses, and no payoffs shall be made until the receipt of such notice.

(3) If a horse wins and there is no money wagered on him to win, the win pool shall be apportioned among the holders or the place tickets on that horse, if any, otherwise among holders of the show tickets.

(4) If no money has been wagered to place on a horse which is placed first or second in a race, the place pool for that race shall be apportioned among the holders of the place tickets on the other horse which was placed first or second.

(5) If no money has been wagered to show on a horse which has placed first, second or third in a race, the show pool in that race shall be apportioned among the holders of show tickets on the other horses which are placed first, second or third in that race.

(6) In the event that only two (2) horses finish in any one (1) race, the show pool shall be figured the same as the place pool and monies apportioned to the holders of show tickets on the two (2) finishing horses. In the event only one (1) horse finishes in any one (1) race all three (3) pools shall be figured separately as straight pools and all the monies shall be awarded to the ticket holders of the finishing horse. In the event no horse finishes the race, then the entire pool shall be refunded to all ticket holders.

(7) If two (2) horses finish in a dead heat for first place, the money in the win mutuel pool is divided between the two (2) dead-heaters according to their proportionate shares in the pool.

(8) If two (2) horses finish in a dead heat for second place, the division is made as follows: There shall be allotted to the pool of the winner of the race one-half (½) of the place pool and the two (2) dead-heaters one-half (½) each of the remaining half of the place pool.

(9) If two (2) horses coupled in the betting as an "entry" or "the field" finish first and second, first and third, or se-

cond and third, two-thirds (⅔) of the net show pool shall be allotted to the pool of the entry and the balance one-third (⅓) to the other horse.

(10) In the event that one (1) horse of the entry or the field finishes first or second and the other part of the entry or field finishes in a dead heat for third with another horse, the division of the net show pool shall be as follows: one-half (½) of the net show pool shall be allotted to the pool of the entry, one-third (⅓) to the non-entry horse not involved in the dead heat, and one-sixth (1/6) to the non-entry horse finishing in the dead heat.

(11) If the entry or field horses should finish first, second and third, the entire money in each pool goes to the entry or field tickets, no other tickets participating.

(12) No mutilated pari-mutuel ticket that is not easily identifiable as being a valid ticket shall be accepted for payment.

(13) No claims for lost pari-mutuel tickets shall be considered.

(14) In the event an error is made in calculation resulting in a price being too high, the association shall lose such amount between the proper price and the one paid. If the error in calculation results in a price being too low, such amount between proper price and price paid shall be added to the net pool of the same position in the following race on the same day or if it is the last race of the day then it shall be added to the net pool of the same position in the same race on the following day. If such an error occurs causing underpayment on the last race of the entire racing meeting, the underpayment shall be paid to the Kentucky Department of Revenue.

Section 6. Daily Doubles. (1) Positively no exchange of daily double tickets after purchaser thereof has left the sales window.

(2) The daily double is not a parlay, and has no connection with or relation to the "tote" betting. All tickets on the daily double will be calculated in an entirely separate pool. Without prior commission approval, only one (1) daily double will be permitted during any single program.

(3) All tickets will be to win (straight) only. Entries and the field run as one (1) horse in the daily double. If two (2) or more horses in a race are coupled on the same totalizator ticket, there shall be no refunds, unless all of the horses so coupled are excused before off time.

(4) Selections are to be made of one (1) horse for each of two (2) races in the daily double by "tote" program numbers.

(5) If no ticket is sold combining the two (2) winners of the daily double, the pool shall then be apportioned equally between those having tickets including the winner in the first race of the daily double and those having tickets including the winner in the second race of the daily double in the same manner in which a place pool is calculated and distributed.

(6) If no ticket is sold on the winner of the first race of the daily double on any combination, the entire pool is apportioned to the holders of tickets on the winner of the second race of the daily double. Likewise, if no ticket is sold on the winner of the second race of the daily double or any combination, the entire pool is apportioned to the holders of tickets on the winner of the first race of the daily double.

(7) If a dead heat to win should result in either the first or second race of the daily double, the total pool is calculated as a place pool. In case of a dead heat for the winner of the first race of the daily double, the posting of

payoff prices will be made after winner of second race of the daily double is official.

(8) Should no ticket be sold containing the numbers of either winner on any combination, the pool shall be allotted to those having tickets on horses finishing next to the winners.

(9) In the event any horse or horses in the first half of the daily double should be excused by the judges after the horses shall have left the paddock for the post, or after the betting on the daily double has been closed, or should any horse or horses in the first half of the daily double be prevented from racing because of failure of the arm or arms of the starting gate to open, the money wagered on any horse or horses so excused or prevented from racing shall be deducted from the daily double pool and refunded to the purchaser or purchasers of tickets on the horse or horses so excused or prevented from racing.

(10) If a horse is scratched from the second half of the daily double before it becomes a starter in the second half, but after the first half of the daily double has been run, all daily double tickets combining the scratched horse in the second race of the daily double with the actual winner of the first race of the daily double shall be paid a price equivalent to that fraction of the net pool derived by dividing the net pool by the total purchase price of all tickets combining the winner of the first race of the daily double with all horses in the second race of the daily double. The total payoff on all tickets combining the winner of the first race of the daily double with the scratched horse in the second race of the daily double as determined by the method set forth in this rule shall be deducted from the net daily double pool.

(11) The possible payoff prices shall be posted or announced to the public before the start of the last race of the daily double, and as soon as possible after the horses in the race of the last half of the daily double have entered upon the track on the way to the post.

(12) If for any reason the second race of the daily double is cancelled or declared "no race" by the judges after the first daily double race is declared official, then the net daily double pool shall be distributed to wagering combinations which include the horse or betting interest which finished first in the first daily double race.

(13) If a daily double is scheduled to be held, subsections (1) to (12) of this section shall be printed in conspicuous places in the grandstand area and an abbreviated version shall be printed on the day's racing program, and notice printed on said program as follows: "Retain Your Tickets Until The Result Of the Daily Double Has Been Posted."

Section 7. Perfecta Wagering. (1) The "perfecta" (also known as exacta or correctia) is a contract by the purchaser of a ticket combining two (2) horses in a single race, selecting the two (2) horses that will subsequently finish first and second in that race. Payment of the ticket shall be made only to the purchaser who has selected the same order of finish as officially posted.

(2) The perfecta is not a "parlay" and has no connection with or relation to the win, place or show betting and will be calculated as an entirely separate pool.

(3) If no ticket is sold on the winning combination of a perfecta pool, the net pool shall be distributed equally between holders of tickets selecting the winning horse to finish first and/or holders of tickets selecting the second place horse to finish second.

(4) If no ticket is sold that would require distribution of a perfecta pool to winner as above defined, the association shall make a complete and full refund of perfecta pool.

(5) In case of a dead heat between two (2) horses for first place the net perfecta pool shall be calculated and distributed as a place pool to holders of tickets of the winning combination(s). In case of a dead heat between two (2) horses for second place, the perfecta pool shall be figured as a place pool, the holders of tickets combining the winning horse and the two (2) horses finishing second participating in the payoff.

(6) In the event of a dead heat for second place, if no ticket is sold on one (1) of the two (2) winning combinations, the entire net pool shall be calculated as a win pool and distributed to those holding tickets on the other winning combination. If no tickets combine the winning horse with either of the place horses in the dead heat, the perfecta pool shall be calculated and distributed as a place pool to holders of tickets representing any interest in the net pool.

(7) In the event two (2) or three (3) horses coupled in an entry or the mutuel field finish first and second or first, second and third, the winning combination shall be the coupled horses and the horse placed immediately behind such entry or field.

Section 8. Quinella Wagering. (1) The "quinella" is a form of a pari-mutuel wagering consisting of selecting the first two (2) horses to finish, irrespective of their place of finish.

(2) The quinella is not a "parlay" and has no connection with or relations to the win, place or show betting and will be calculated as an entirely separate pool.

(3) In case of a dead heat between two (2) horses for first place, the combination shall be the winner of the quinella pool. In case of a dead heat between two (2) horses for second place, the quinella pool shall be figured as a place pool, the holders of tickets combining the winning horse and the two (2) horses finishing second participating in the payoff.

(4) In the event of a dead heat for second place, if no ticket is sold on one (1) of the winning combinations, the entire net pool shall be calculated as a win pool and distributed to those holding tickets on the other winning combination. If no tickets combine the winning horse with either of the place horses in the dead heat, the net pool shall be calculated and distributed as a place pool to holders of tickets combining either of the place horses; however, if any tickets combine both horses in the dead heat for place, the net pool shall be calculated and distributed as a win pool to holders of such tickets.

(5) If no ticket is sold on the winning combination of a quinella pool, the net pool shall then be apportioned equally between those having tickets including the horse finishing first and those having tickets including the horse finishing second in the same manner in which a place pool is calculated and distributed.

(6) If no ticket is sold that would require distribution of a quinella pool to a winner as above defined, the association shall make a complete and full refund of the quinella pool.

(7) If a perfecta and/or quinella is scheduled to be held, each association shall print an abbreviated version of this rule on the day's racing program.

(8) In the event two (2) or three (3) horses coupled in an entry or the mutuel field finish first and second or first, second and third, the winning combination shall be the coupled horses and the horse placed immediately behind such entry or field.

Section 9. Double Perfecta Wagering. (1) the double perfecta is a form of pari-mutuel wagering in which the

bettor selects the two (2) horses that will finish first and second in each of two (2) consecutive races in the exact order as officially posted.

(2) Double perfecta tickets shall be sold only at double perfecta windows and only from automatic double issue machines.

(3) Each bettor purchasing double perfecta tickets shall designate his two (2) selections as the first two (2) horses to finish in that order in the first of two (2) consecutive races.

(4) After the official declaration of the first two (2) horses to finish in the first race of the double perfecta, each bettor holding a ticket combining the first two (2) horses in the exact order of finish must, prior to the running of the second double perfecta race exchange ticket at the double perfecta window and at such time shall select the two (2) horses to finish in the second race of the double perfecta in the exact order as officially posted. No further money shall be required of the holder of the ticket in order to make the exchange.

(5) No double perfecta exchange ticket upon the second race shall be issued except upon the surrender of the double perfecta ticket from the first race as described in these rules. The double perfecta pool obtained from the sales of double perfecta tickets upon the first race shall be held, subject to these rules, and divided among the winning tickets of the double perfecta exchange tickets, subject to those rules to the contrary. Double perfecta windows shall be open for the purpose of making the exchange as described only after the first race has been declared official.

(6) If a winning double perfecta ticket from the first race is not presented for exchange within the time provided the bettor forfeits all rights to any distribution or refund except in the event the second half of the double perfecta is cancelled or declared "no race."

(7) If a horse is scratched in the first race of the double perfecta races, all double perfecta tickets on the scratched horse will be refunded.

(8) If a horse is scratched in the second race of the double perfecta, after the first race of the double perfecta has been declared official, all exchange tickets combining the scratched horse shall become consolation tickets and shall be paid a price per dollar denomination calculated as follows: the net double perfecta pool (gross pool less commission) shall be divided by the total purchase price of all tickets combining the winners of the first race of the double perfecta. The quotient thus obtained shall be the price to be paid to holders of exchange tickets combining the scratched horse in the second race of the double perfecta. The entire consolation pool (number of eligible tickets times the consolation price) shall be deducted from the net double perfecta pool.

(9) If no double perfecta ticket is sold as a winning combination in the first race of the double perfecta, the double perfecta pool shall be divided among those having tickets including the horse finishing first and those having tickets including the horse finishing second and such distributions shall be calculated and made as a place pool. In such an instance the double perfecta race shall end and the pool be closed for the day.

(10) If no double perfecta exchange ticket is sold on the winning combination the net pool shall then be apportioned equally between those having tickets including the horse finishing first and those having tickets including the horse finishing second in the same manner in which a place pool is calculated and distributed.

(11) If a double perfecta exchange ticket combines only one (1) of the two (2) winners and no double perfecta ex-

change ticket combines the other winner, the entire pool shall be distributed as a straight pool to the holders of those tickets.

(12) If no exchange ticket includes either the first or second horse of the second half of the double perfecta the entire net pool shall be distributed as a straight pool to all holders of exchange tickets.

(13) In the event of a dead heat for place in the first race of the double perfecta races, all double perfecta tickets combining the first horse and either of the place horses shall be eligible for exchange for double perfecta exchange tickets.

(14) In the event of a dead heat for place in the second race of the double perfecta, the double perfecta pool shall be divided, calculated and distributed as a place pool to the holders of double perfecta exchange tickets combining the first horse and either of the place horses. In the event of the dead heat to place and there are no tickets sold on one (1) combination, then the other combination having the winning horses shall be declared the winner. If no exchange tickets combining the winning horse with either of the place horses in the dead heat, the double perfecta pool shall be calculated and distributed as a win pool to holders of tickets representing any interest in the net pool.

(15) If for any reason the second of the double perfecta races is cancelled or declared "no race," the pool shall be calculated as a straight pool and shall be distributed among the holders of the tickets combining the first two (2) horses of the first race of the double perfecta otherwise eligible for double perfecta exchange tickets and also distributed to holders of the double perfecta exchange tickets.

(16) If there is a dead heat for the winning horse in either of the two (2) consecutive races for the double perfecta, such calculation of distribution of the double perfecta pool shall be made in the manner in which any ordinary perfecta pool would be made should there be a dead heat for the win despite the number of horses involved in the dead heat.

(17) The purchase of double perfecta tickets other than through pari-mutuel machines and the sale of double perfecta tickets from one (1) individual to another shall be deemed illegal and is prohibited.

Section 10. Big "Q" Rules (1) Each operator wishing to conduct Big "Q" wagering must first petition the commission for permission to do so.

(2) Each operator shall either print in the daily program or prominently post at all areas where Big Q wagering is conducted the complete rules for Big Q wagering as set forth in the following sections:

(a) The Big Q consists of selecting the quinella (the first two (2) horses to finish) of each of two (2) consecutive races. Pari-mutuel wagering tickets are to be sold upon the first race of the two (2) races only. The division of the pool shall be calculated as in a straight pool, subject to provisions of these rules to the contrary.

(b) No entries or field horses shall be allowed to start in any race comprising the Big Q.

(c) Tickets shall be sold only at Big Q windows and only from automatic double issuing machines.

(d) Each bettor purchasing tickets shall designate his two (2) selections as the first two (2) horses to finish in the first race of the two (2) races.

(e) After the official declaration of the first two (2) horses to finish the first of the Big Q races, each bettor holding a ticket combining the said two (2) horses to finish must, prior to the running of the second race, exchange such winning ticket for a Big Q exchange ticket at the Big Q

windows and at such time the said holder shall select the first two (2) horses to finish in the second race of the Big Q. No further money shall be required of the holder of the ticket in order to make the exchange.

(f) No Big Q exchange ticket upon the second race shall be issued except upon the surrender of the Big Q ticket from the first race as described in these sections. The Big Q pool obtained from the sales of the Big Q tickets upon the first race shall be held subject to these sections, and divided among the winning tickets of the Big Q exchange tickets, subject to these sections to the contrary. Big Q windows shall be open for the purpose of making the exchange as described only after the first race has been declared official and such windows shall close at post time at the start of the second race of the Big Q races.

(g) If a winning Big Q ticket from the first race is not presented for exchange within the time provided, the bettor forfeits all rights to any distribution or refund except in the event the second half of the Big Q is cancelled or declared "no race" or if no exchange ticket includes either the first or second horse of the second half of the Big Q.

(h) If a horse is scratched in the first race, all Big Q tickets on the scratched horse will be refunded. If a horse is scratched in the second race, the holders of tickets on the scratched horse will be entitled to exchange their tickets for another selection. In the event of a late scratch, after the exchange windows have been closed, all exchange tickets combining the scratched horse shall become consolation tickets and shall be paid a price per dollar denomination calculated as follows: The net Big Q pool (gross pool less commission) shall be divided by the total purchase price of all tickets combining the winnings of the first race of the Big Q. The quotient thus obtained shall be the price to be paid to holders of exchange tickets combining the scratched horse in the second race of the Big Q. The entire consolation pool (number of eligible tickets times the consolation price) plus the breakage shall be deducted from the net Big Q pool.

(i) If no ticket is sold as a winning combination in the first race of the Big Q, the Big Q pool shall be divided among those having tickets including the horse finishing first or second and such distributions shall be calculated and made as a place pool. In such an instance, the Big Q race shall end and the pool be closed for the day.

(j) If no Big Q exchange ticket is sold on the winning combination, the net pool shall be apportioned equally between those having tickets including the horse finishing second in the same manner in which a place pool is calculated and distributed.

(k) If a Big Q exchange ticket combines only one (1) of the winners and no Big Q exchange ticket combines the other winner, the entire pool shall be distributed as a straight pool to the holders of those tickets.

(l) If no exchange ticket includes either the first or second horse of the second half of the Big Q, the entire net pool will be distributed as a straight pool to all holders of exchange tickets and winning combinations of the first half that have not been exchanged.

(m) In the event of a dead heat for place in the first race of the Big Q races all Big Q tickets combining the first horse and either of the place horses shall be eligible for exchange for Big Q exchange tickets.

(n) In the event of a dead heat for place in the second race of the Big Q races the pool will be divided, calculated and distributed as a place pool to the holders of Big Q exchange tickets combining the first horse and either of the place horses. In the event of the dead heat to place and

there are no tickets sold on one (1) combination, then the other combination having winning horses shall be declared the winner.

(o) If no exchange tickets combine the winning horse with either of the place horses in the dead heat, the Big Q pool shall be calculated and distributed as a place pool to holders of tickets combining either of the place horses, however if any exchange tickets combine both horses in the dead heat for place, the Big Q pool shall be calculated and distributed as a place pool to holders of such tickets.

(p) If for any reason the first race of the Big Q races is cancelled or declared "no race" full and complete refund shall be made from the Big Q pool.

(q) If for any reason, the second of the Big Q races is cancelled or declared "no race" the pool shall be calculated as a straight pool and shall be distributed among the holders of tickets combining the first two (2) horses of the first race of the Big Q otherwise eligible for Big Q exchange tickets and also distributed to holders of the Big Q exchange tickets.

(r) If there is a dead heat for the winning horses in either of the two (2) consecutive races for the Big Q such calculation of distribution of the Big Q pool shall be made in the manner in which any ordinary quinella pool would be made should there be a dead heat for the win despite the number of horses involved in the dead heat.

(s) In the event that an incorrect exchange ticket is issued during the second half of the Big Q pool, such incorrect exchange ticket must be turned in to the State Auditor prior to the running of the second half. Said tickets shall be deducted from both exchange and individual combination totals. The ticket shall be voided and filed with the performance worksheets and a report including the seller's name and license number, shall be made to the commission of the complete incident.

Section 11. Trifecta Wagering. (1) The "Trifecta" is a contract by the purchaser of a ticket combining three (3) horses in a single race, selecting the three (3) horses that will subsequently finish first, second and third in that race. Payment of the ticket shall be made only to the purchaser who has selected the same order of finish as officially posted.

(2) The "Trifecta" is not a parlay and has no connection with or relation to the Win, Place and Show betting and will be calculated as an entirely separate pool.

(3) Trifecta tickets shall be sold in not less than two dollars (\$2) denominations.

(4) If no ticket is sold on the winning combination of a Trifecta Pool, the net pool shall be distributed to the holders of tickets selecting the win and place finishers in that order. If no ticket is sold combining the win and place finish, the net pool will be distributed to the holders of tickets selecting the winner.

(5) If no ticket is sold that would require distribution of the net Trifecta Pool to a winner as above defined, the association shall make a full refund of the Trifecta Pool.

(6) In the event of a dead heat or dead heats, all Trifecta tickets selecting the correct order of finish, counting a horse in a dead heat as finishing in either position dead heated, shall be winning tickets. The payoff will be calculated as a place pool.

(7) In the event of a scratch in the Trifecta no exchanges will be made. All tickets which include the scratched horse are eliminated from further participation in the Trifecta Pool and will be refunded.

(8) No entries or field horses shall be allowed in any race that the Trifecta is being sold.

(9) Trifecta tickets shall be sold only by the licensee through pari-mutuel machines programmed to print all selections on one (1) ticket. Resale of such tickets from one (1) individual to another is prohibited and shall be grounds for ejection.

(10) Each association shall print in heavy type in a conspicuous place in its printed program all the provisions of this section and post printed copies of this section about the track in such places as it may deem advisable.

(11) For the purpose of trifecta wagering the trifecta race shall be drawn to consist of ten (10) starters and two (2) also eligibles.

Section 12. Types of Wagering Allowed. The following types of wagering shall be permitted at all tracks given racing dates by the commission:

- (1) Normal win, place and show betting on each race.
- (2) A daily double on the first and second races.
- (3) Any other methods of betting approved in advance by the commission.

CARL B. LARSEN, Deputy Commissioner

ADOPTED: January 18, 1980

APPROVED: H. FOSTER PETTIT, Secretary

RECEIVED BY LRC: February 15, 1980 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Betty Burton, Acting Executive Secretary, Kentucky Harness Racing Commission, 369 Waller Avenue, Lexington, Kentucky 40504.

PUBLIC PROTECTION AND REGULATION CABINET
Kentucky Harness Racing Commission
(Proposed Amendment)

811 KAR 1:150. Officials; deputies and assistants.

RELATES TO: KRS 230.620(4); 230.630(1),(2),(3); 230.640; 230.650; 230.660

PURSUANT TO: KRS 13.082, 230.630(3),(4),(7)

NECESSITY AND FUNCTION: To regulate conditions under which harness racing shall be conducted in Kentucky. The function of this regulation is to set out the duties and responsibilities of commission officials, deputies and assistants.

Section 1. Executive Racing Secretary. The executive racing secretary is appointed by the Governor and shall be responsible for the keeping of the minutes of the commission and shall be the official custodian of all records of the commission. The executive racing secretary shall manage the office of the commission and shall supervise office personnel, exclusive of the deputy commissioner (supervisor of racing) and assistant deputy commissioner (assistant supervisor of racing) and shall supervise licensing from the office of the commission and shall perform such other duties as shall be designated by the commission.

Section 2. Deputy Commissioner (Supervisor of Racing). A deputy commissioner (supervisor of racing) may be appointed by the commission and shall be representative at large of the commission. He shall have general supervision

over all race officials and licensees of the commission. He shall supervise the licensing of all those persons required to be licensed by the commission at associations. He shall generally supervise the conduct of the racing, the pari-mutuel operations, and the testing of horses. His authority is extended to cover all powers and duties of the commission, subject to review by the commission, except for such limitations expressly stated in the law or the commission's regulations. He shall have authority to conduct inquiries, and shall submit a report of all proceedings thereon to the commission. He shall at all times have access to all parts of the course, plant and grounds, including the pari-mutuel department. The compensation of the deputy commissioner (supervisor of racing) shall be fixed by the commission and paid by the commission or other branches of state government. The commission in its discretion may appoint such assistants to the deputy commissioner (supervisor of racing) as it may deem necessary who shall have the same authority as the deputy commissioner (supervisor of racing) in his absence but such assistant shall be junior in authority to the deputy commissioner (supervisor of racing) at all times. In addition, the commission may appoint any other assistants as it may deem necessary.

Section 3. The commission may, in its discretion, designate one (1) of the officials as its representative at that particular meeting. Said designee shall be required to perform all of the functions of a deputy commissioner (supervisor of racing).

Section 4. It shall be the duty of all the officials to enforce the rules and regulations of the commission.

Section 5. The deputy commissioner (supervisor of racing) or any official or employee appointed or approved by the commission may be removed by the commission in its discretion. The chairman, or in his absence from the state, the vice-chairman, may suspend the deputy commissioner (supervisor of racing) or any official or employee appointed or approved by the commission until such time as the commission may act to remove or reinstate said deputy commissioner (supervisor of racing), official, or employee.

Section 6. In an emergency, due to incapacity or absence, the deputy commissioner (supervisor of racing) or in his absence, the licensee may appoint a substitute official to serve pending a new official approved by the commission.

Section 7. Commission Director of Security. [(1)] The commission may employ an investigator experienced in police work who shall advise the commission as to any person on association grounds, or among license applicants, whose conduct or reputation is such that such person's presence on association grounds may reflect on the honesty and integrity of standardbred racing or interfere with the orderly conduct of standardbred racing. The commission director of security shall:

(1) [(2)] Maintain a current file on persons against whom rulings have been issued in racing jurisdictions and reported through the National Association of State Racing Commissioners and the United States Trotting Association. Said file also shall contain reports received from all available agencies as to investigations, arrest records, and other information; said file also shall contain reports as to ejections or exclusions from association grounds in Kentucky and other racing jurisdictions.

(2) [(3)] Investigate and ascertain the truth of statements made on license applications.

(3) [(4)] Investigate possible infractions of racing rules at the request of the commission or stewards.

(4) [(5)] Participate and cooperate with members of the track security police, state and local police on all other investigations and conduct pertaining to racing in the Commonwealth.

Section 8. Commission Supervisors of Pari-Mutuel Betting. (1) The commission shall employ supervisors of pari-mutuel betting with accounting experience who shall be responsible for ascertaining whether the proper amounts have been paid from pari-mutuel pools to the betting public, to the association, and to the commonwealth, by checking, auditing, and filing with the commission verified reports accounting for daily pari-mutuel handle distribution and attendance for each preceding racing day and a final report at the conclusion of each race meeting in the Commonwealth.

(2) Such daily reports to the commission shall show: For each race: number of horses started, number of betting interests, total money wagered in each betting pool, and refunds, if any for each day. The sum of all betting pools, and total refunds also, total pari-mutuel handle for the comparable racing day for the preceding year, and cumulative total and daily average pari-mutuel handle for the race meeting.

(3) Such daily reports also shall show: amount of state pari-mutuel tax due; taxable admissions, tax exempt admissions, total admissions; temperature, weather and track conditions, post time of first race; program purses, distance and conditions of each race; any minus pools resulting with explanation.

(4) The commission supervisors of pari-mutuel betting shall submit to the commission on or before thirty (30) days after the close of each race meeting a final verified report giving in summary form a recapitulation of the daily reports for each race meeting and such other information as the commission may require.

(5) The commission supervisors of pari-mutuel betting or their representatives shall have access to all association books, records, and pari-mutuel equipment for checking accuracy of same.

Section 9. The commission, its executive racing secretary, representatives, officials and employees shall at all times have full access to the course, plant and grounds, including the judges' stand, and pari-mutuel department.

Section 10. Commission Veterinarian. (1) The commission shall employ a graduate veterinarian licensed in Kentucky and experienced in equine medicine. He shall advise the commission and the judges on all equine veterinary matters. The commission veterinarian shall supervise and control the test barn area, supervise the collection of samples for the testing of horses for prohibited medication described in 811 KAR 1:090. The commission veterinarian shall also inspect horses programmed to race that may be lame, sick, or too weak to race.

(2) No veterinarians designed as officials at any race meeting shall practice their profession upon the grounds at such race meeting, except, however, such veterinarian may act in case of an emergency, and only for so long as such emergency may exist; nor shall he buy or sell, for himself or another any horse under his supervision; nor shall he wager on a race under his supervision.

Section 11. Commission Chemist. (1) The commission is authorized to employ a graduate chemist experienced in chemical testing techniques who shall be responsible for conducting tests on urine, saliva and blood specimens from standardbreds delivered to him by the commission veterinarian or any other person so authorized by the commission, and shall be responsible for conducting any other tests requested or required by the commission. The commission chemist is authorized on behalf of the commission, to acquire, operate and maintain, or to provide by contract approved by the commission, a chemical testing laboratory and related facilities.

(2) The commission chemist shall report to the presiding judge and the deputy commissioner all substances he may find in the chemical tests which are not normal in the body of the horse as outlined in 811 KAR 1:090.

Section 12. Director, Standardbred Development Fund. (1) A director shall be appointed by the Kentucky Harness Racing Commission to supervise the registration of horses for entry into races provided by the Kentucky Standardbred Development Fund. He shall assist the agency head and commissioners in the development and enforcement of policies, regulations and operational methods of the Kentucky Standardbred Development Fund. He shall be the liaison between breeders, horsemen, and track managers as to the scheduling of sire stakes events. The director shall supervise one (1) employee, an administrative specialist, and review all statistical charts and reports of purses and contributions from the mutuel handle that concern the fund. He shall supervise all advertising in the major horse publications regarding race dates, registered sires in Kentucky and nominating dates.

(2) The compensation of the director shall be fixed by the commission. The compensation shall be paid out of the Kentucky Standardbred Development Fund.

CARL B. LARSEN, Deputy Commissioner

ADOPTED: November 4, 1979

APPROVED: H. FOSTER PETTIT, Secretary

RECEIVED BY LRC: February 15, 1980 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Betty Burton, Acting Executive Secretary, Kentucky Harness Racing Commission, 369 Waller Avenue, Lexington, Kentucky 40504.

DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council
(Proposed Amendment)

902 KAR 1:010. Distribution of generic drug formulary.

RELATES TO: KRS 217.814 to 217.826, 217.990(9)(10)
PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: KRS 217.819 directs the Kentucky Drug Formulary Council to prepare a formulary of drugs and pharmaceuticals with their generic or chemical names that are determined by the council to be therapeutically equivalent to specified brand name drugs and pharmaceuticals. KRS 217.819 also directs the council to provide for the distribution of copies of such formulary and revisions and additions thereto among practitioners

and pharmacists and to supply a copy to any person on request upon payment of a price determined by the council. This regulation provides for the distribution of the formulary and prescribes a fee to be paid by other persons requesting a copy of the formulary.

Section 1. Distribution of Formulary to Physicians and Pharmacists. The Kentucky Generic Drug Formulary shall be distributed, when available, without request or cost, to all licensed pharmacists and to all licensed medical and osteopathic physicians and dentists actively engaged in practice in Kentucky.

Section 2. Distribution of Formulary to Podiatrists and Veterinarians. The Kentucky Generic Drug Formulary shall be distributed, when available, upon written request, without cost to all licensed podiatrists and veterinarians actively engaged in practice in Kentucky.

Section 3. Distribution of Formulary to Individuals; Fee. The Kentucky Generic Drug Formulary shall be distributed, when available, to any person upon written request, upon payment of a *two dollars (\$2)* [one dollar (\$1)] fee. The cost of subsequent revisions of the formulary to such persons shall be *two dollars (\$2)* [one dollar (\$1)].

Section 4. *After a re-review of Reserpine products by the Kentucky Drug Formulary Council on December 18, 1979, it was decided that there was not sufficient data available to determine therapeutic equivalence. Therefore, 902 KAR 1:100 is hereby repealed.*

E. C. SEELEY, MD, Chairperson

ADOPTED: January 24, 1980

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: February 6, 1980 at 2:15 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Andy Naff, Kentucky Drug Formulary Council, 275 East Main Street, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council
(Proposed Amendment)

902 KAR 1:075. Prednisone.

RELATES TO: KRS 217.814 to 217.826, 217.990(9)(10)
 PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: KRS 217.819 directs the Kentucky Drug Formulary Council to prepare a formulary of drugs and pharmaceuticals with their generic or chemical names that are determined by the council to be therapeutically equivalent to specified brand name drugs and pharmaceuticals. This regulation lists Prednisone pharmaceutical products by their generic and brand names that have been determined by the council to be therapeutically equivalent.

Section 1. Prednisone Tablet Pharmaceutical Products. The following Prednisone tablet pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage:

- (1) Prednisone 5 mg. Tablet Form:
 - (a) Deltasone: Upjohn Company;
 - (b) Orasone: Rowell Laboratories;
 - [(c) Paracort: Parke-Davis and Company;]
 - (c) [(d)] Prednisone: Philips-Roxane Laboratories;
 - (d) [(e)] SK-Prednisone: Smith, Kline and French Laboratories.
- (2) Prednisone 10 mg. Tablet Form:
 - (a) Deltasone: Upjohn Company;
 - (b) Orasone: Rowell Laboratories;
 - (c) Prednisone: Philips-Roxane Laboratories.
- (3) Prednisone: 20 mg. Tablet Form:
 - (a) Deltasone: Upjohn Company; [and]
 - (b) Orasone: Rowell Laboratories;
 - (c) Prednisone: Philips-Roxane Laboratories.
- (4) Prednisone 50 mg. Tablet Form:
 - (a) Deltasone: Upjohn Company;
 - (b) Orasone: Rowell Laboratories;
 - (c) Prednisone: Philips-Roxane Laboratories.

E. C. SEELEY, MD, Chairperson

ADOPTED: January 24, 1980

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: February 6, 1980 at 2:15 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Andy Naff, Kentucky Drug Formulary Council, 275 East Main Street, Frankfort, Kentucky 40621.

DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council
(Proposed Amendment)

902 KAR 1:318. Dexamethasone [elixir].

RELATES TO: KRS 217.814 to 217.826, 217.990(9)(10)
 PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: KRS 217.819 directs the Kentucky Drug Formulary Council to prepare a formulary of drugs and pharmaceuticals with their generic or chemical names that are determined by the council to be therapeutically equivalent to specified brand name drugs and pharmaceuticals. This regulation lists Dexamethasone pharmaceutical products by their generic and brand names that have been determined by the council to be therapeutically equivalent.

Section 1. Dexamethasone Elixir Pharmaceutical Products. The following Dexamethasone elixir pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage: Dexamethasone 0.5mg/5ml Elixir Form:

- (1) Decadron: Merck, Sharp and Dohme;
- (2) Dexamethasone: Generix Drug Corporation, Henry Schein Inc., Murray Drug Corporation, National Pharmaceuticals, Richie Pharmacal, Three P Products, Vanguard Laboratories;
- (3) Hexadrol: Organon, Inc.

Section 2. Dexamethasone Tablet Pharmaceutical Products. The following Dexamethasone tablet pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage:

- (1) *Dexamethasone 0.5 mg. Tablet Form:*
 (a) *Decadron: Merck, Sharp and Dohme;*
 (b) *Hexadrol: Organon, Inc.*
 (2) *Dexamethasone 0.75 mg. Tablet Form:*
 (a) *Decadron: Merck, Sharp and Dohme;*
 (b) *Hexadrol: Organon, Inc.*
 (3) *Dexamethasone 1.5 mg. Tablet Form:*
 (a) *Decadron: Merck, Sharp and Dohme;*
 (b) *Hexadrol: Organon, Inc.*
 (4) *Dexamethasone 4.0 mg. Tablet Form:*
 (a) *Decadron: Merck, Sharp and Dohme;*
 (b) *Hexadrol: Organon, Inc.*

E. C. SEELEY, MD, Chairperson

ADOPTED: January 8, 1980

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: February 6, 1980 at 2:15 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
 TO: Dan W. Hanke, Ph.D., Kentucky Drug Formulary
 Council, 275 East Main Street, Frankfort, Kentucky
 40621.

DEPARTMENT FOR HUMAN RESOURCES
 Bureau for Health Services
 Certificate of Need and Licensure Board
 (Proposed Amendment)

902 KAR 20:025. *Skilled nursing facilities.* [Extended care and recuperation center services.]

RELATES TO: KRS 216.405 to 216.485, 216.990(2)

PURSUANT TO: KRS 13.082, 216.425

NECESSITY AND FUNCTION: This regulation, which relates to the operations and services of *Skilled Nursing Facilities* [Extended Care and Recuperation Center Services] is being promulgated pursuant to the mandate of KRS 216.425(3) that the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board regulate health facilities and health services.

Section 1. Definition: *Skilled Nursing* [Extended Care and Recuperation Center] Services, General: Establishments with medical staffs; with permanent facilities that include inpatient beds; and with medical services, including physician services and continuous nursing services, to provide treatment for patients who require inpatient care but are not in an acute phase of illness, who currently require primarily convalescent or restorative services, and who have a variety of medical conditions.

Section 2. Essential Characteristics for *Skilled Nursing* [an Extended Care and Recuperation Center] Services: The essential characteristics for *skilled nursing* [extended care and recuperation center] services are as follows:

(1) The primary function of the institution shall be to provide treatment for patients who require inpatient care but who are not in an acute phase of illness; who currently require primarily convalescent or restorative services; and who have a variety of medical conditions.

(2) There shall be arrangements for transfer of patients in need of hospital care for acute phases of illness.

(3) The institution shall maintain inpatient beds.

(4) There shall be a governing authority legally responsible for the conduct of the institution.

(5) There shall be an administrator to whom the governing authority shall delegate the full-time responsibility for the operation of the institution in accordance with established policy.

(6) There shall be medical staff of the institution, or one that serves the institution through an affiliation, to which the governing authority shall delegate responsibility for maintaining proper standards of medical care.

(7) Each patient shall be admitted on the medical authority of, and shall be under the supervision of a physician.

(8) A current and complete medical record shall be maintained for each patient.

(9) Registered professional nurse supervision and other nursing services shall be continuous.

(10) Diagnostic x-ray service and clinical laboratory service shall be regularly and conveniently available.

(11) There shall be control of the storage and dispensing of controlled substances and other medications.

(12) Food served to patients shall meet their nutritional requirements, and special diets shall be regularly available.

Section 3. Administrative Management: The facility shall have an effective governing body legally responsible for the conduct of the facility, which designates an administrator and establishes administrative policies. However, if the facility does not have an organized governing body, the persons legally responsible for the conduct of the facility shall carry out or have carried out the functions herein pertaining to the governing body.

(1) Governing body. There shall be a governing body which assumes full legal responsibility for the overall conduct of the facility. The ownership of the facility shall be fully disclosed to the state licensure agency. In the case of corporations, the corporate offices shall be made known. The governing body shall be responsible for compliance with the applicable laws and regulations of legally authorized agencies.

(2) Full-time administrator. The governing body shall appoint a full-time administrator who shall be qualified by training and experience and shall delegate to him the internal operation of the facility in accordance with established policies.

(a) The administrator shall be at least twenty-one (21) years old, shall be capable of making mature judgments, and shall have no physical or mental disabilities or personality disturbances which interfere with carrying out his responsibilities.

(b) The administrator shall be licensed as a nursing home administrator as provided by KRS 216A.070.

(c) The administrator's responsibilities for procurement and direction of competent personnel shall be clearly defined.

(d) An individual competent and authorized to act in the absence of the administrator shall be designated.

(e) The administrator may be a member of the governing body.

(3) Personnel policies. There shall be written personnel policies, practices, and procedures that adequately support sound patient care. Current employee records shall be maintained and include a resume of each employee's training and experience. Files shall contain evidence of adequate health supervision such as results of pre-employment and periodic physical examination, including T.B. test,

and records of all illnesses and accidents occurring on duty. Work assignments shall be consistent with qualifications.

(4) *Patient rights.* Patient rights shall be provided for pursuant to KRS 216.515 to 216.530. [Notification of changes in patient status. There shall be appropriate written policies and procedures relating to notification of responsible persons in the event of significant changes in patient status, patient charges, billings, and other related administrative matters. Patients shall not be transferred or discharged without prior notification of next of kin or sponsor. Information describing the care and services provided by the facility shall be accurate and not misleading.]

Section 4. Patient Care Policies: There shall be policies to govern the skilled nursing care and related medical or other services provided, which shall be developed with the advice of professional personnel, including one (1) or more physicians and one (1) or more registered professional nurses. A physician, a registered professional nurse, or a medical staff shall be responsible for the execution of these policies.

(1) Policies regarding nursing and medical care:

(a) The facility has written policies which shall be developed with the advice of (and with provision for review of such policy from time to time by) a group of professionals, including at least one (1) or more physicians and one (1) or more registered professional nurses, to govern the skilled nursing care and related medical or other services it provides. Policies shall reflect awareness of and provision for meeting the total needs of patients. These shall be reviewed at least annually and cover at least the following:

1. Admission, transfer, and discharge policies including categories of patients accepted and not accepted by the facility.

2. Physician services.
3. Nursing services.
4. Dietary services.
5. Restorative services.
6. Pharmaceutical services.
7. Diagnostic services.
8. Dental services.
9. Social services.
10. Patient activities.
11. Clinical records.
12. Transfer agreement.
13. Utilization review.

(b) The group of professional personnel responsible for patient care policies shall include health personnel such as social workers, dieticians, pharmacists, speech pathologists and audiologists, physical and occupational therapists, and mental health personnel. Pharmacy policies and procedures shall be developed with the advice of a subgroup of physicians and pharmacists, serving as a pharmacy and therapeutics committee.

(c) Some members of this group shall be neither owners nor employees of the facility.

(d) The group shall meet at regularly scheduled intervals and minutes of each meeting shall be recorded.

(e) The group may serve one (1) or more facilities.

(2) Responsibilities: Execution of patient care policies. The facility shall have a physician, a registered professional nurse, or a medical staff responsible for the execution of patient care policies established by the professional group referred to in this section. If the organized medical staff is responsible, an individual physician shall be

designated to maintain compliance with overall patient care policies. If a registered professional nurse is responsible, the facility shall make available an advisory physician from whom she receives medical guidance.

Section 5. Physician Services: Patients in need of skilled nursing care shall be admitted only upon the recommendation of a physician; their health care shall continue under the supervision of a physician; and the facility shall have a physician available to furnish necessary medical care in case of emergency.

(1) Medical findings and physicians' orders. There shall be made available to the facility, prior to or at the time of admission, patient information which includes current medical findings, diagnosis, rehabilitation potential, a summary of the course of treatment followed in the hospital, and orders from a physician for the immediate care of the patient.

(a) If the above information is not available in the facility upon admission of the patient, it shall be obtained by the facility within forty-eight (48) hours after admission.

(b) If medical orders for the immediate care of a patient are unobtainable at the time of admission, the physician with responsibility for emergency care shall give temporary orders.

(c) A current hospital discharge summary containing the above information shall [not] be acceptable.

(2) Supervision by physician. The facility shall have a requirement that the health care of every patient is under the supervision of a physician who, based on an evaluation of the patient's immediate and long-term needs, prescribes a planned regimen of medical care which covers indicated medications, treatments, restorative services, diet, special procedures recommended for the health and safety of the patient, activities, plans for continuing care and discharge.

(a) The medical evaluation of the patient shall be based on a physical examination done within forty-eight (48) hours of admission unless such examination was performed within five (5) days prior to admission.

(b) The charge nurse and other appropriate personnel involved in the care of the patient shall assist in planning his total program of care.

(c) The patient's total program of care shall be reviewed and revised at intervals appropriate to his needs. Attention shall be given to special needs of patients such as foot, sight, speech, and hearing problems.

(d) Orders concerning medications and treatments shall be in effect for the specified number of days indicated by the physician but in no case exceed a period of thirty (30) days unless recorded in writing by the physician.

(e) Telephone orders shall be accepted only when necessary and only by licensed nurses. Telephone orders shall be written into the appropriate clinical record by the nurse receiving them and shall be countersigned by the physician within forty-eight (48) hours.

(f) Patients shall be seen by a physician at least once every thirty (30) days [.] for the first ninety (90) days following admission. Subsequent to the ninetieth (90th) day following admission an alternate schedule not to exceed sixty (60) days between visits shall be established. There shall be evidence in the clinical record of the physician's visits to the patient at appropriate intervals.

(g) There shall be evidence in the clinical record that the physician has made arrangements for the medical care of the patient in the physician's absence.

(h) To the extent feasible, each patient or his sponsor shall designate a personal physician.

(3) Availability of physicians for emergency care. The facility shall provide for having one or more physicians available to furnish necessary medical care in case of emergency if the physician responsible for the care of the patient is not immediately available. A schedule listing the names and telephone numbers of these physicians and the specific days each shall be on call shall be posted in each nursing station. There shall be established procedures to be followed in an emergency, which cover immediate care of the patient, persons to be notified, and reports to be prepared.

Section 6. Nursing Services: The facility shall provide twenty-four (24) hour nursing services which shall be sufficient to meet the nursing needs of all patients. There shall be at least one (1) registered professional nurse employed full-time and responsible for the total nursing service. There shall be a registered professional nurse or practical nurse who is a graduate of a state approved school of practical nursing in charge of nursing activities during each tour of duty. The terms "licensed practical nurse(s)" and "practical nursing" as used in this section are synonymous with "licensed vocational nurse(s)" and vocational nursing.

(1) Full-time nursing. There shall be at least one (1) registered professional nurse employed full-time. If there is only one (1) registered professional nurse, she shall serve as director of the nursing service, shall work full-time during the day, and shall devote full-time to the nursing service of the facility. If the director of nursing has administrative responsibility for the facility, she shall have a professional nurse assistant so that there shall be the equivalent of a full-time director of nursing service. The director of nursing shall be trained or experienced in areas such as nursing service, administration, rehabilitation nursing, psychiatric or geriatric nursing.

(2) Director of nursing service. The director of the nursing service shall be responsible for:

(a) Developing and/or maintaining nursing service objectives, standards of nursing practice, nursing procedures manuals, and written job descriptions for each level of nursing personnel;

(b) Recommending to the administrator the number and level of nursing personnel to be employed, participating in their recruitment and selection, and recommending termination of employment when necessary;

(c) Assigning and supervising all levels of nursing personnel;

(d) Participating in planning and budgeting for nursing care;

(e) Participating in the development and implementation of patient care policies and bringing patient care problems requiring changes in policy to the attention of the professional policy advisory groups;

(f) Coordinating nursing services with other patient care services such as physician, physical therapy, occupational therapy, and dietary;

(g) Planning and conducting orientation programs for new nursing personnel and continuing inservice education for all nursing personnel;

(h) Participating in the selection of prospective patients in terms of nursing services they need and nursing competencies available;

(i) Assuring that a nursing care plan shall be established for each patient and that his plan shall be reviewed and modified as necessary;

(j) Assuring that registered professional nurses, licensed practical nurses' aides and orderlies are assigned duties consistent with their training and experience.

(3) Supervising nurse. Nursing care shall be provided by or under the supervision of a full-time registered professional nurse currently licensed to practice in the state. The supervising nurse shall be trained or experienced in areas such as nursing administration and supervision, rehabilitation nursing, psychiatric or geriatric nursing. The supervising nurse shall make daily rounds to all nursing units performing such functions as visiting each patient, reviewing clinical records, medication cards, patient care plans, and staff assignments, and to the greatest degree possible accompanying physicians when visiting patients.

(4) Charge nurse. There shall be at least one (1) registered professional nurse or qualified licensed practical nurse who is a graduate of a state approved school of practical nursing on duty at all times and in charge of the nursing activities during each tour of duty.

(a) A state approved school of practical nursing shall be one whose standards of education meet those set by the appropriate state nurse licensing authority.

(b) It shall be desirable that the nurse in charge of each tour of duty be trained or experienced in areas such as nursing administration and supervision, rehabilitation nursing, psychiatric or geriatric nursing.

(c) The charge nurse shall have the ability to recognize significant changes in the condition of patients and to take necessary action.

(d) The charge nurse shall be responsible for the total nursing care of patients during her tour of duty.

(5) Twenty-four (24) hour nursing service. There shall be twenty-four (24) hour nursing service with a sufficient number of nursing personnel on duty at all times to meet the total needs of patients. Nursing personnel shall include registered professional nurses, licensed practical nurses, aides and orderlies. The amount of nursing time available for patient care shall be exclusive of non-nursing duties. Sufficient nursing time shall be available to assure that each patient:

(a) Shall receive treatments, medication, and diets as prescribed;

(b) Shall receive proper care to prevent decubiti and shall be kept comfortable, clean and well-groomed;

(c) Shall be protected from accident and injury by the adoption of indicated safety measures;

(d) Shall be treated with kindness and respect.

(6) Restorative nursing care. There shall be an active program of restorative nursing care directed toward assisting each patient to achieve and maintain his highest level of self-care and independence.

(a) Restorative nursing care initiated in the hospital shall be continued immediately upon admission to the extended care facility.

(b) Nursing personnel shall be taught restorative nursing measures and shall practice them in their daily care of patients. These measures shall include:

1. Maintaining good body alignment and proper positioning of bedfast patients;

2. Encouraging and assisting bedfast patients to change positions at least every two (2) hours, day and night to stimulate circulation and prevent decubiti and deformities;

3. Making every effort to keep patients active and out of bed for reasonable periods of time, except when contraindicated by physician's orders, and encouraging patients to achieve independence in activities of daily living by teaching self care, transfer and ambulation activities;

4. Assisting patients to adjust to their disabilities, to use their prosthetic devices, and to redirect their interests if necessary;

5. Assisting patients to carry out prescribed physical therapy exercises between visits of the physical therapist.

(c) Consultation and instruction in restorative nursing available from state or local agencies shall be utilized.

(7) Dietary supervision. Nursing personnel shall be aware of the dietary needs and food and fluid intake of patients. Nursing personnel shall observe that patients are served diets as prescribed. Patients needing help in eating shall be assisted promptly upon receipt of meals. Adaptive self help devices shall be provided to contribute to the patient's independence in eating. Food and fluid intake of patients shall be observed and deviations from normal shall be reported to the charge nurse. Persistent unresolved problems shall be reported to the physician.

(8) Nursing care plan. There shall be written nursing care plans for each patient based on the nature of illness, treatment prescribed, long and short term goals and other pertinent information.

(a) The nursing care plan shall be a personalized, daily plan for individual patients. It shall indicate what nursing care is needed, how it can best be accomplished for each patient, how the patient likes things done, what methods and approaches are most successful, and what modifications are necessary to insure best results.

(b) Nursing care plans shall be available for use by all nursing personnel.

(c) Nursing care plans shall be reviewed and revised as needed.

(d) Relevant nursing information from the nursing care plan shall be included with other medical information when patients are transferred.

(9) Inservice educational program. There shall be a continuing education program in effect for all nursing personnel in addition to a thorough job orientation for new personnel. Skill training for non-professional nursing personnel shall begin during the orientation period. Planned inservice programs shall be conducted at regular intervals for all nursing personnel. All patient care personnel shall be instructed and supervised in the care of emotionally disturbed and confused patients, and shall be helped to understanding the social aspects of patient care. Skill training shall include demonstration, practice, and supervision of simple nursing procedures applicable in the individual facility. It shall also include simple restorative nursing procedures to be followed in emergencies. Opportunities shall be provided for nursing personnel to attend training courses in restorative nursing and other educational programs related to the care of long-term patients.

Section 7. Dietary Services: The dietary service shall be directed by a qualified individual and shall meet the daily dietary needs of patients. A facility which has a contract with an outside food management company may be found to meet this requirement provided the company has a dietician who serves, as required by the scope and complexity of the service, on a full-time, part-time or consultant basis to the facility, and provided the company maintains regulations as listed herein and shall provide for continuing liaison with the medical and nursing staff of the facility for recommendations on dietetic policies affecting patient care.

(1) Dietary supervisions. A person designated by the administrator shall be responsible for the total food service of the facility. If this person is not a professional dietician,

regularly scheduled consultation from a professional dietician or other person with suitable training shall be obtained. A professional dietician shall meet the American Dietetic Association's qualification standards. Other persons with suitable training shall be graduates of baccalaureate degree programs with major studies in food and nutrition. The person in charge of the dietary service shall participate in regular conferences with the administrator and other supervisors of patient services. This person shall make recommendations concerning the quantity, quality and variety of food purchased. This person shall be responsible for the orientation, training and supervision of food service employees, and shall participate in their selection and in the formulation of pertinent personnel policies. Consultation obtained from self-employed dieticians or dieticians employed in voluntary or official agencies shall be acceptable if provided on a frequent and regularly scheduled basis.

(2) Adequacy of diet staff. A sufficient number of food service personnel shall be employed and their working hours shall be scheduled to meet the dietary needs of the patients. There shall be food service employees on duty over a period of twelve (12) or more hours. Food service employees shall be trained to perform assigned duties and shall participate in selected inservice education programs. In the event food service employees are assigned duties outside the dietary department, these duties shall not interfere with the sanitation, safety, or time required for dietary work assignments. Work assignments and duty schedules shall be posted.

(3) Hygiene of diet staff. Food service personnel shall be in good health and practice hygienic food handling techniques. Food service personnel shall keep their hands and fingernails clean at all times. Routine health examinations shall at least meet local and state codes for food health service personnel. Where food handler's permits are required, they shall be current. Personnel having symptoms of communicable diseases or open infected wounds shall not be permitted to work.

(4) Adequacy of diet. The food and nutritional needs of patients shall be met in accordance with physician's orders, and, to the extent medically possible, shall meet the dietary allowances of the Food and Nutrition Board of the National Research Council adjusted for age, sex, and activity. A daily food guide for adults may be based on the following allowances:

(a) Milk: Two (2) or more cups.

(b) Meat group: Two (2) or more servings of beef, veal, pork, lamb, poultry, fish, eggs. Occasionally dry beans, nuts, or dry peas may be served as alternates.

(c) Vegetable and fruit group: Four (4) or more servings. A citrus fruit or other fruit and vegetable important for Vitamin C; a dark green or deep yellow vegetable for Vitamin A, at least every other day; other fruits and vegetables including potatoes.

(d) Bread and cereal group: Four (4) or more servings of whole grain, enriched or restored.

(e) Other foods to round out meals and snacks, to satisfy individual appetites and provide additional calories.

(5) Therapeutic diets. Therapeutic diets shall be prepared and served as prescribed by the attending physician. Therapeutic diet orders shall be planned, prepared, and served with supervision or consultation from a qualified dietician. A current diet manual recommended by the state licensure agency shall be readily available to food service personnel and supervisors of nursing service. Persons responsible for therapeutic diets shall have sufficient

knowledge of food values to make appropriate substitutions when necessary.

(6) Quality of food. At least three (3) meals or their equivalent shall be served daily, at regular times, with not more than a fourteen (14) hour span between a substantial evening meal and breakfast. Between meal or bedtime snacks of nourishing quality shall be offered. If the "four (4) or five (5) meals a day" plan is in effect, meals and snacks shall provide nutritional value equivalent to the daily food guide previously described.

(7) Planning of menus. Menus shall be planned in advance and food sufficient to meet the nutrition needs of patients shall be prepared as planned for each meal. When changes in the menu are necessary, substitutions shall provide equal nutritive value. Menus shall be written at least one (1) week in advance. The current week's menu shall be in one or more accessible places in the dietary department for easy use by workers purchasing, preparing, and serving foods. Menus shall provide a sufficient variety of foods served in adequate amounts at each meal. Menus shall be different for the same days of each week and shall be adjusted for seasonal changes. Records of menus served shall be filed and maintained for thirty (30) days. Supplies of staple foods for a minimum of a one (1) week period and of perishable foods for a minimum of a two (2) day period shall be maintained on the premises. Records of food purchased for preparation shall be on file.

(8) Preparation of food. Food shall be prepared by methods that conserve nutritive value, flavor, and appearance, and shall be attractively served at the proper temperatures and in a form to meet individual needs. A file of tested recipes, adjusted to appropriate yield, shall be maintained. Food shall be cut, chopped or ground to meet individual needs. If a patient refuses food served, substitutes shall be offered. Effective equipment shall be provided and procedures established to maintain food at proper temperature during serving. Table service shall be provided for all who can and will eat at a table including wheelchair patients. Trays provided bedfast patients shall rest on firm supports such as overbed tables. Sturdy tray stands of proper height shall be provided patients able to get out of bed.

(9) Maintenance of sanitary conditions. Sanitary conditions shall be maintained in the storage, preparation and distribution of food. Effective procedures for cleaning all equipment and work areas shall be followed consistently. Dishwashing procedures and techniques shall be well developed, understood and carried out in compliance with state and local health codes. Written reports of inspections by state or local health authorities shall be on file at the facility with notation made of action taken by the facility to comply with any recommendations. Waste which is not disposed of by mechanical means shall be kept in leak proof nonabsorbent containers with close fitting covers and shall be disposed of daily in a manner that will prevent transmission of disease, a nuisance, a breeding place for flies, or a feeding place for rodents. Containers shall be thoroughly cleaned inside and out each time emptied. Dry or staple food items shall be stored off the floor in a ventilated room not subject to sewage or waste water backflow, or contamination by condensation, leakage, rodents, or vermin. Handwashing facilities including hot and cold water, soap, individual towels, preferably paper towels, shall be provided in kitchen areas.

Section 8. Restorative Services: Restorative services shall be provided upon written order of the physician.

(1) Medical director. Restorative services shall be provided only upon written order by the physician, who shall indicate anticipated goals and shall be responsible for general medical direction of such services as part of the total care of the patient. The physician shall prescribe specific modalities to be used and frequency of physical and occupational therapy services.

(2) Maintenance of patient's functions. At a minimum, restorative nursing care designed to maintain function or improve the patient's ability to carry out the activities of daily living shall be provided by the facility.

(3) Therapy services. If restorative services beyond restorative nursing care are offered, whether directly or through cooperative arrangements with appropriate agencies such as hospitals, rehabilitation centers, state or local health departments, or independently practicing therapists, these services shall be given or supervised by therapists, meeting the qualifications set out below. When supervision is less than full-time, it shall be provided on a planned basis and shall be frequent enough, in relation to the staff therapist's training and experience to assure sufficient review of individual treatment plans and progress.

(a) Physical therapy shall be given or supervised by a therapist who is licensed in the Commonwealth of Kentucky.

(b) Physical therapy shall include such services as:

1. Assisting the physician in his evaluation of patients by applying muscle, nerve, joint, and functional ability tests;

2. Treating patients to relieve pain, develop or restore functions, and maintain maximum performance, using physical means such as exercise, massage, heat, water, light, and electricity.

(c) Speech therapy shall be given or supervised by a therapist who meets one (1) of the following requirements:

1. Has been granted a certificate of clinical competence in the appropriate area (Speech Pathology or Audiology) by the American Speech and Hearing Association; or

2. Meets the equivalent educational requirements and work experience necessary for such certificate; or

3. Has completed the academic and practicum requirements for certification and shall be in the process of accumulating the necessary supervised work experience required for certification; or

4. Has a basic certificate of provisional basic certification and is in the process of acquiring four (4) years of sponsored professional experience.

(d) Speech therapy shall be service in speech pathology or audiology, and may include:

1. Cooperation in the evaluation of patients with speech, hearing, or language disorders;

2. Determination and recommendation of appropriate speech and hearing services;

3. Provision of necessary rehabilitative services for patients with speech, hearing, and language disabilities.

(e) Occupational therapy shall be given or supervised by a therapist who is registered by the American Occupational Therapy Association or is a graduate of a program approved by the Council on Medical Education of the American Medical Association in collaboration with the American Occupational Therapy Association and is in the process of accumulating supervised clinical experience required for registration.

(f) Occupational therapy shall include duties such as:

1. Assisting the physician in his evaluation of the patient's level of function by applying diagnostic and prognostic tests.

2. Guiding the patient in his use of therapeutic creative and self care activities for improving functions.

(g) Other personnel providing restorative services shall be trained and work under professional supervision in accordance with accepted professional practices. For example, an occupational therapy assistant shall have successfully completed a training course approved by the American Occupational Therapy Association, shall be certified by that body as a certified occupational therapy assistant, and shall receive supervision from a qualified occupational therapist.

(h) In a facility with an organized rehabilitation service using a multi-disciplinary team approach to meet all the needs of the patient, and where all therapists' services are administered under the direct supervision of a physician qualified in physical medicine who will determine the goals and limits of the therapists' work, and prescribes modalities and frequency of therapy, persons with qualifications other than those described in subsection (3)(a), (c) and (e) of this section could be assigned duties appropriate to their training and experience.

(i) Therapists shall collaborate with the facility's medical and nursing staff in developing the patient's total plan of care.

(j) Therapists shall participate in the facility's inservice education programs.

(4) Ambulation and therapeutic equipment. Commonly used ambulation and therapeutic equipment necessary for services offered shall be available for use in the facility. Recommended ambulation equipment includes such items as parallel bars, hand rails, wheelchairs, walkers, walkerettes, crutches and canes. The therapists shall advise the administrator concerning the purchase, rental, storage and maintenance of equipment and supplies.

Section 9. Pharmaceutical Services: Whether drugs are generally procured from community or institutional pharmacists or stocked by the facility, the facility shall have methods for its pharmaceutical services that are in accordance with accepted professional practices.

(1) Procedures for administration of pharmaceutical services. The facility shall provide appropriate methods and procedures for the obtaining, dispensing and administering of drugs and biologicals, developed with the advice of a staff pharmacist, a consultant pharmacist, or a pharmaceutical advisory committee which includes one (1) or more licensed pharmacists.

(a) If the facility has a pharmacy department, a licensed pharmacist shall be employed to administer the pharmacy department.

(b) If the facility does not have a pharmacy department, it shall have provisions for promptly and conveniently obtaining prescribed drugs and biologicals from community or institutional pharmacists.

(c) If the facility does not have a pharmacy department, but does maintain a supply of drugs:

1. The consultant pharmacist shall be responsible for the control of all bulk drugs and maintain records of their receipt and disposition.

2. The consultant pharmacists shall dispense drugs from the drug supply, properly label them and make them available to appropriate licensed nursing personnel. Wherever possible, the pharmacist in dispensing drugs shall work from the prescriber's original order or direct copy.

3. Provisions shall be made for emergency withdrawal of medications from the drug supply.

(d) An emergency medication kit approved by the facility's group of professional personnel shall be kept readily available.

(e) The facility shall have written policies covering pharmaceutical services which shall be developed with the advice of a group of professional personnel and which shall be reviewed at least annually. Pharmacy policies and procedures shall be preferably developed with the advice of a subgroup of physicians and pharmacists serving as a pharmacy and therapeutic's committee.

(2) Conformance with physician's orders. All medications administered to patients shall be ordered in writing by the patient's physician. Oral orders shall be given only to a licensed nurse, immediately reduced to writing, signed by the nurse and countersigned by the physician within forty-eight (48) hours. Medications not specifically limited as to time or number of doses, when ordered, shall be automatically stopped in accordance with written policy approved by the physician or physicians responsible for advising the facility on its medical administrative policies. The charge nurse and the prescribing physician together shall review monthly each patient's medications. The patient's attending physician shall be notified of stop order policies and contacted promptly for renewal of such orders so that continuity of the patient's therapeutic regimen is not interrupted. Medications are released to patients on discharge only on the written authorization of the physician.

(3) Administration of medications. All medications shall be administered by licensed medical or nursing personnel in accordance with the Medical Act (KRS 311.530 to 311.620) and Nurse Practice Act (KRS Chapter 314). Each dose administered shall be recorded in the clinical record.

(a) The nursing station shall have readily available items necessary for the proper administration of medications.

(b) In administering medications, medication cards or other state approved systems shall be used and checked against the physician's orders.

(c) Medications prescribed for one patient shall not be administered to any other patient.

(d) Self-administration of medications by patients shall not be permitted except for emergency drugs on special order of the patient's physician or in a predischARGE program under the supervision of a licensed nurse.

(e) Medication errors and drug reactions shall be immediately reported to the patient's physician and an entry thereof made in the patient's clinical record as well as on an incident report.

(f) Up-to-date medication reference texts and sources of information shall be provided, such as the American Hospital Formulary Service of the American Society of Hospital Pharmacists or other suitable references.

(4) Labeling and storing medications. Patients' medications shall be properly labeled and stored in a locked cabinet at the nurses' station.

(a) The label of each patient's individual medication container clearly indicates the patient's full name, physician's name, prescription number, name and strength of drug, date of issue, expiration date of all time dated drugs and name and address and telephone number of pharmacy issuing the drug. It is advisable that the manufacturer's name and the lot or control number of the medication also appear on the label.

(b) Medication containers having soiled, damaged, incomplete, illegible, or makeshift labels shall be returned to the issuing pharmacist or pharmacy for relabeling or disposal. Containers having no labels shall be destroyed in accordance with state and federal laws.

(c) The medications of each patient shall be kept and stored in their originally received containers and transferring between containers shall be forbidden.

(d) Separately locked, securely fastened boxes (or drawers) within the medicine cabinet shall be provided for storage of controlled substances, barbiturates, amphetamines and other dangerous drugs subject to the Controlled Substances Act (KRS Chapter 218A).

(e) Cabinets shall be well lighted and of sufficient size to permit storage without crowding.

(f) Medications requiring refrigeration shall be kept in a separate locked box within a refrigerator at or near the nursing station.

(g) Poisons and medications for "external use only" shall be kept in a locked cabinet and separate from other medications.

(h) Medications no longer in use shall be disposed of or destroyed in accordance with federal and state laws and regulations.

(i) Medications having an expiration date shall be removed from usage and properly disposed of after such date.

(5) Control of controlled substances, etc. The facility complies with all federal and state laws and regulations relating to the procurement, storage, dispensing, administration and disposal of controlled substances, those drugs subject to the federal and state Controlled Substances Acts, and other legend drugs (KRS Chapter 218A). A controlled substances record shall be maintained which lists on separate sheets for each type and strength of controlled substances the following information: date, time administered, name of patient, dose, physician's name, signature of person administering dose and balance.

Section 10. Diagnostic Services: The facility shall have provisions for obtaining required clinical laboratory, x-ray and other diagnostic services [Provisions for diagnostic services]. The facility shall have provisions for promptly and conveniently obtaining required clinical laboratory, x-ray and other diagnostic services. Such services may be obtained from a physician's office, a laboratory which is part of a licensed hospital or a laboratory which is approved to provide these services as an independent laboratory. If the facility provides its own diagnostic services, these shall meet the applicable laws and regulations. All diagnostic services shall be provided only on the request of a physician. The physician shall be notified promptly of the test results. Arrangements shall be made for the transportation of patients, if necessary, to and from the source of service. Simple tests, such as those customarily done by nursing personnel for diabetic patients may be done in the facility. All reports shall be included in the clinical record.

Section 11. Dental Services: The facility shall assist patients to obtain regular and emergency dental care. Provision for dental care: Patients shall be assisted to obtain regular and emergency dental care. An advisory dentist shall provide consultation, participate in inservice education, recommend policies concerning oral hygiene, and shall be available in case of emergency. The facility, when necessary, shall arrange for the patient to be transported to the dentist's office. Nursing personnel shall assist the patient to carry out the dentist's recommendations.

Section 12. Social Services: (1) Provision for medically related social needs. The medically related social needs of the patient shall be identified, and services provided to

meet them, in admission of the patient, during his treatment and care in the facility, and in planning for his discharge.

(a) As a part of the process of evaluating a patient's need for services in a facility and whether the facility can offer appropriate care, emotional and social factors shall be considered in relation to medical and nursing requirements.

(b) As soon as possible after admission, there shall be evaluation, based on medical, nursing and social factors, of the probable duration of the patient's need for care and a plan shall be formulated and recorded for providing such care.

(c) Where there are indications that financial help will be needed arrangements shall be made promptly for referral to an appropriate agency.

(d) Social and emotional factors related to the patient's illness, to his response to treatment and to his adjustment to care in the facility shall be recognized and appropriate action shall be taken when necessary to obtain casework services to assist in resolving problems in these areas.

(e) Knowledge of the patient's home situation, financial resources, community resources available to assist him, and pertinent information related to his medical and nursing requirements shall be used in making decisions regarding his discharge from the facility.

(2) Staff members responsible for social services. There shall be a designated member of the staff of the facility who will take responsibility when medically related social problems shall be recognized for action necessary to solve them. There shall be a full-time or part-time social worker employed by the facility, or there shall be a person on the staff who is suited by training and/or experience in related fields to find community resources to deal with the social problems. The staff member responsible for this area of service shall have information promptly available on health and welfare resources in the community. If the facility does not have a qualified social worker on its staff, there shall be an effective arrangement with a public or private agency, which may include the local welfare department, to provide social service consultation. A qualified social worker shall be a graduate of a school of social work accredited by the Council on Social Work Education.

(3) Social services training of staff. There shall be provisions for orientation and inservice training of staff directed toward understanding emotional problems and social needs of sick and infirm aged persons and recognition of social problems of patients and the means of taking appropriate action in relation to them. Either a qualified social worker on the staff, or one from outside the facility, shall participate in training programs, case conferences, and arrangements for staff orientation to community services and patient needs.

(4) Confidentiality of social data. Pertinent social data, and information about personal and family problems related to the patient's illness and care shall be made available only to the attending physician, appropriate members of the nursing staff, and other key personnel who are directly involved in the patient's care, or to recognized health or welfare agencies. There shall be appropriate policies and procedures for assuring the confidentiality of such information.

(a) The staff member responsible for social services shall participate in clinical staff conferences and/or confers with the attending physician prior to admission of the patient, at intervals during the patient's stay in the facility, and prior to discharge of the patient, and there shall be evidence in the record of such conferences.

(b) The staff member and nurses responsible for the patient's care confer frequently and there shall be evidence of effective working relationships between them.

(c) Records of pertinent social information and of action taken to meet social needs shall be maintained for each patient; signed social service summaries shall be entered promptly in the patient's clinical record for the benefit of all staff involved in the care of the patient.

Section 13. Patient Activities: Activities suited to the needs and interests of patients shall be provided as an important adjunct to the active treatment program and to encourage restoration to self-care and resumption of normal activities. Provision for patient activity: Provision shall be made for purposeful activities which are suited to the needs and interests of patients.

(1) An individual shall be designated as being in charge of patient activities. This individual shall have experience and/or training in directing group activities.

(2) The activity leader shall use, to the fullest possible extent, community, social and recreational opportunities.

(3) Patients shall be encouraged but not forced to participate in such activities. Suitable activities are provided for patients unable to leave their rooms.

(4) Patients who are able and who wish to do so are assisted to attend religious services.

(5) Patient's request to see their clergymen shall be honored and space shall be provided for privacy during visits.

(6) Visiting hours shall be flexible and posted to permit and encourage visiting friends and relatives.

(7) The facility shall make available a variety of supplies and equipment adequate to satisfy the individual interests of patients. Examples of such supplies and equipment are: books and magazines, daily newspapers, games, stationery, radio and television and the like.

Section 14. Clinical Records: A clinical record shall be maintained for each patient admitted, in accordance with accepted professional principles.

(1) Maintenance of clinical records. The facility shall maintain a separate clinical record for each patient admitted with all entries kept current, dated and signed.

(a) Identification and summary sheet(s) including patient's name, social security number, marital status, age, sex, home address, and religion; names, addresses, and telephone numbers of referral agency (including hospital from which admitted), personal physician, dentist, and next of kin or other responsible person; admitting diagnosis, final diagnosis, condition on discharge and disposition and any other information needed to meet state requirements;

(b) Initial medical evaluation including medical history, physical examination, diagnosis, and estimation of restorative potential;

(c) Authentication of hospital diagnoses, in the form of a hospital summary discharge sheet or a report from the physician who attended the patient in the hospital or a transfer form used under a transfer agreement;

(d) Physician's orders, including all medications, treatment, diet, restorative and special medical procedures required for the safety and well being of the patient;

(e) Physician's progress notes describing significant changes in the patient's condition, written at the time of each visit;

(f) Nurses' notes containing observations made by the nursing personnel;

(g) Medication and treatment record including all medications, treatments, and special procedures performed for the safety and well being of the patient;

(h) Laboratory and x-ray reports;

(i) Consultation reports;

(j) Dental report;

(k) Social service notes;

(l) Patient care referral reports.

(2) Retention of records. All clinical records of discharged patients shall be completed promptly and filed and retained and such additional information as is deemed necessary by the governing body of the facility for five (5) years. The facility shall have policies providing for the retention and safekeeping of patients' clinical records by the governing body for the required period of time in the event that the facility discontinues operation. If the patient is transferred to another health care facility, a copy of the patient's clinical record or an abstract thereof shall accompany the patient.

(3) Confidentiality of records. All information contained in the clinical records shall be treated as confidential and shall be disclosed only to authorized persons.

(4) Staff responsibility for records. If the facility does not have a full or part-time medical record librarian, an employee of the facility shall be assigned the responsibility for assuring that records are maintained, completed and preserved. The designated individual shall be trained by, and shall receive regular consultation from a person skilled in record maintenance and preservation.

Section 15. Transfer Agreement: The facility shall have in effect a transfer agreement.

(1) Patient transfer. The transfer agreement shall provide reasonable assurance that transfer of patients will be effected between the hospital and the facility whenever such transfer is medically appropriate as designated by the attending physician. The agreement shall be with a hospital close enough to the facility to make the transfer of patients feasible. The transfer agreement facilitates continuity of patient care and expedites appropriate care for the patient. The agreement shall be made on a one-to-one basis or on a community-wide basis. The latter arrangement could provide for a master agreement to be signed by each hospital and facility. When the transfer agreement is on a community-wide basis, it shall reflect the mutual planning and agreement of hospitals, facilities and other related agencies. The institutions shall provide to each other information about their resources sufficient to determine whether the care needed by a patient is available. Where the transfer agreement specifies restrictions with respect to the types of services available in the hospital or the facility and/or the types of patients or health conditions that will not be accepted by the hospital or the facility, or shall include any other criteria relating to the transfer of patients (such as priorities for persons on waiting lists), such restrictions or criteria shall be the same as those applied by the hospital or facility to all potential inpatients of the hospital or facility. When a transfer agreement has been in effect over a period of time, a sufficient number of patient transfers between the two (2) institutions shall have occurred to indicate that the transfer agreement is effective.

(2) Interchanges of information. The transfer agreement shall provide reasonable assurance that there will be interchange of medical and other information necessary or useful in the care and treatment of individuals transferred between the institutions, or in determining whether such

individuals can be adequately cared for otherwise than in either of such institutions.

(a) The agreement shall establish responsibility for the prompt exchange of patient information to enable each institution to determine whether it can adequately care for the patient and to assure continuity of patient care.

(b) Medical information transferred shall include current medical findings, diagnosis, rehabilitation potential, a brief summary of the course of treatment followed in the hospital or facility, nursing and dietary information useful in the care of the patient, ambulation status, and pertinent administrative and social information.

(c) The agreement shall provide for the transfer of personal effects, particularly money and valuables, and for the transfer of information related to these items.

(3) Execution of agreement. The transfer agreement shall be in writing and signed by the individuals authorized to execute such agreement on behalf of the institutions, or, in case the two (2) institutions are under common control, there shall be a written policy or order signed by the person or body which controls them. When the hospital and facility are not under common control, the terms of the transfer agreement shall be established jointly by both institutions. Each institution participating in the agreement shall maintain a copy of the agreement.

(4) Specification of responsibilities. The transfer agreement shall specify the responsibilities each institution assumes in the transfer of patients and information between the hospital and the facility. The agreement establishes responsibility for notifying the other institution promptly of [or] the impending transfer of a patient; arranging for appropriate and safe transportation; and arranging for the care of patients during transfer.

(5) Presumed agreement where necessary for provision of services. A facility which does not have a transfer agreement in effect but which is found by the state licensing agency to have attempted in good faith to enter into a transfer agreement with a hospital sufficiently close to the facility to make feasible the transfer between them of patients and medical and other information, shall be considered to have such an agreement in effect if and for so long as it is also found that to do so is in the public interest and essential to assuring extended care services for patients in the community eligible for benefits.

(a) If there is only one (1) hospital in the community, the facility shall have attempted in good faith to enter into a transfer agreement with that hospital.

(b) If there are several hospitals in the community, the facility shall have exhausted all reasonable possibilities of entering into a transfer agreement with these hospitals.

(c) The facility shall have copies of letters, records of conferences, and other evidence to support its claim that it has attempted in good faith to enter into a transfer agreement.

(d) The state agency shall have found that hospitals in the community have, in fact, refused to enter into a transfer agreement with the facility in question.

(e) The state agency shall take into consideration the availability of facilities in the community and the expected need of such services.

Section 16. Housekeeping Services: The facility shall provide the housekeeping and maintenance services necessary to maintain a sanitary and comfortable environment.

(1) Housekeeping services. The facility shall provide sufficient housekeeping and maintenance personnel to main-

tain the interior and exterior of the facility in a safe, clean, orderly, and attractive manner. Nursing personnel shall not be assigned housekeeping duties.

(a) Housekeeping personnel, using accepted practices and procedures shall keep the facility free from offensive odors, accumulations of dirt, rubbish, dust, and safety hazards.

(b) Floors shall be cleaned regularly. Polishes on floors shall provide a nonslip finish; throw or scatter rugs shall not be used except for nonslip entrance mats.

(c) Walls and ceilings shall be maintained free from cracks and falling plaster, and shall be cleaned and painted regularly.

(d) Deodorizers shall not be used to cover up odors caused by unsanitary conditions or poor housekeeping practices.

(e) Storage areas, attics, and cellars shall be kept free and safe from accumulations of extraneous materials such as refuse, discarded furniture and old newspapers. Combustibles such as cleaning rags and compounds shall be kept in closed metal containers.

(f) The grounds shall be kept free from refuse and litter. Areas around buildings, sidewalks, gardens and patios shall be kept clear of dense undergrowth.

(2) Pest control. The facility shall be maintained free from insects and rodents. A pest control program shall be in operation in the facility. Pest control services shall be provided by maintenance personnel of the facility or by contract with a pest control company. Care shall be taken to use the least toxic and least flammable effective insecticides and rodenticides. These compounds shall be stored in nonpatient areas and in nonfood preparation and storage areas. Poisons shall be under lock. Windows and doors shall be appropriately screened during the insect breeding season. Harborages and entrances for insects and rodents shall be eliminated. Garbage and trash shall be stored in areas separate from those used for the preparation and storage of food and shall be removed from the premises in conformity with state and local practices. Containers shall be cleaned regularly.

(3) Linen. The facility shall have available at all times a quantity of linen essential for the proper care and comfort of patients. Linens shall be handled, stored, and processed so as to control the spread of infection. The linen supply shall be at least three (3) times the usual occupancy. Clean linen and clothing shall be stored in clean, dry, dust-free areas easily accessible to the nurses' station. Soiled linen shall be stored in separate well-ventilated areas, and is not permitted to accumulate in the facility. Soiled linen and clothing shall be stored separately in suitable bags or containers. Soiled linen shall not be sorted, laundered, rinsed, or stored in bathrooms, patient rooms, kitchens, or food storage areas.

Section 17. Disaster Plan: The facility shall have written procedures to be followed in case of fire or other disaster. [Disaster plan:] The facility shall have a written procedure to be followed in case of fire, explosion or other emergency. It specifies persons to be notified, locations of alarm signals and fire extinguishers, evacuation routes, procedures for evacuating helpless patients, frequency of fire drills, and assignment of specific tasks and responsibilities to the personnel of each shift. The plan shall be developed with the assistance of qualified fire and safety experts. All personnel shall be trained to perform assigned tasks. Simulated drills testing the effectiveness of the plan shall

be conducted on each shift at least three (3) times a year. The plan shall be posted throughout the facility.

MASON C. RUDD, Chairman

ADOPTED: January 16, 1980

RECEIVED BY LRC: February 1, 1980 at 2:45 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Mason C. Rudd, Chairman, Kentucky Health Facilities and Health Services, Certificate of Need and Licensure Board, 275 East Main Street, Frankfort, Kentucky 40621.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Health Services
Certificate of Need and Licensure Board
(Proposed Amendment)

902 KAR 20:040. Family care homes; operation and services.

RELATES TO: KRS 216.405 to 216.485, 216.990(2)

PURSUANT TO: KRS 13.082, 216.425

NECESSITY AND FUNCTION: This regulation, which relates to the operations and services of Family Care Homes, is being promulgated pursuant to the mandate of KRS 216.425(3) that the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board regulate health facilities and health services.

Section 1. Scope. This regulation relates to the operation and services rendered by a family care home (formerly licensed as mini care homes).

Section 2. Definitions. (1) A family care home is a home operated and maintained to provide twenty-four (24) hour protective and personal care services in residential accommodations for two (2) or three (3) individuals who are not related within the third degree of consanguinity to the licensee and who because of impaired capacity for self care elect or require a protective environment but who do not have an illness, injury, or disability for which constant medical care and skilled nursing services are required. The term "home" as used in this regulation means a family care home.

(2) "Impaired capacity for self care" includes residents who have a mental or physical limitation which decreases his/her ability to function in a normal adult manner or whose daily living is normalized through the use of prescription medications. Such individuals do not have the ability to function independent of the protective environment in their daily living.

(3) "Protective environment" refers to the provision of those services (emergency health care, nutritional needs, personal grooming, or freedom from injury) which the resident is not capable of providing for him or herself in a safe and/or sanitary manner.

Section 3. Essential Characteristics. The essential characteristics of a family care home are as follows:

(1) The home maintains a bed for each resident. Never more than one (1) resident to a bed.

(2) The licensee who resides in the home and provides twenty-four (24) hour supervision of and assistance to the residents.

(3) A record is maintained for each resident.

(4) All residents are mobile to the extent that they are not bedfast, and can either walk unassisted, or with mechanical assistance not requiring the attention of another person.

(5) There is supervision of medications ordered by physicians for residents.

(6) There are arrangements for physician's services for residents when required.

(7) Food served to residents meets their nutritional needs.

(8) There are arrangements with other health agencies and facilities for residents who, at some time, may require a transfer to a different level of care.

(9) The home maintains standards of comfort and safety in keeping with the needs of the residents.

(10) Provisions are made to involve the resident in community activities, and to activate the resident in a beneficial way, within the home.

(11) There is a written procedure for providing or obtaining emergency services.

Section 4. Licensure. No person shall provide family care home services without having first obtained a license from the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board. All family care homes shall comply with the provisions of this regulation in order to qualify for licensing and for the renewal thereof.

Section 5. Licenses. (1) Upon submission of a properly completed license application form together with prescribed fee, a family care home operating prior to July 1, 1975 that has been determined through a site inspection to be in compliance with the standards listed herein, or in substantial compliance and with a plan to achieve compliance as soon as appropriate but not later than the date of expiration of the license, may be issued a license by the Certificate of Need and Licensure Board.

(2) Family care homes not operating prior to July 1, 1975 must be in compliance with the standards listed herein to be licensed.

Section 6. Management and Personnel. (1) The family care home operator shall be a mature, literate adult who is responsible and who has knowledge and understanding of the needs of adults who require protective and personal care services.

(2) The person submitting an application for licensure of a family care home shall be the person directly responsible for the twenty-four (24) hour daily operation of the home or for delegating that responsibility to another similarly qualified individual when a temporary absence is necessary. The name of that individual to whom the responsibility may be designated shall be in writing and available to the agents of the board inspecting the home.

(3) Each licensee shall attend at least one (1) training program for family care home operators per year as offered or approved by the Department for Human Resources.

(4) The licensee and all full-time or part-time help utilized by the licensee shall be in good health and free of communicable diseases. They shall be able to show proof of an annual examination for TB by a physician or the local health department.

(5) The licensee shall keep a notebook located on the premises and available for inspection by the board's

agents. The notebook shall contain the following information typed or in ink about each resident:

- (a) Name and sex.
- (b) Date of arrival and birthdate.
- (c) Relatives (if any) or responsible agencies and their addresses.
- (d) Name of physician and phone numbers.
- (e) Amount charged per week or month as compensation for care.
- (f) Date of departure.
- (g) Other relevant information including physician visits and/or assessment reports.
- (6) Phone numbers of a hospital, an ambulance service, fire department, and a physician for emergencies shall be posted by the telephone in large legible print if phone service is available in the area.
- (7) An accident report on a resident shall be written and one (1) copy kept on file and made available to the board agents within seven (7) days of the incident. The original shall be sent to the Office of Inspector General, Division for Licensing and Regulation, 275 East Main Street, Frankfort, Kentucky.
- (8) A family care home shall not be used as a boarding home for infants and children under the age of eighteen (18) years.
- (9) No persons under eighteen (18) years of age shall operate a family care home.
- (10) The licensee shall keep any other records as required by the licensing authority.
- (11) *Patient rights: Patients rights shall be provided for pursuant to KRS 216.515 to 216.530.*

Section 7. Medical Requirements. (1) No licensee shall knowingly admit or retain a resident suffering from a communicable disease which is reportable to the local health department, except a (noninfectious) tuberculosis patient under continuing medical supervision for his/her tuberculosis disease. The licensee shall show evidence a concerted effort has been made to obtain for a resident a physical examination by a physician within a reasonable time (three (3) months) prior to or after arrival at the home.

(2) If admitted from another facility a discharge summary or transfer form shall be included in the resident's record. Medical evaluation including medical history, physical examination and diagnosis shall be included (may be a copy of discharge summary, history and physical report from hospital or other health facility, if done within fourteen (14) days prior to admission to the home).

(3) It shall be the responsibility of the licensee to obtain the services of a physician in case of accident or acute illness of any resident.

(4) All medications prescribed for residents shall be noted, in writing, as given with the date, time and dosage, and signed by the person administering the medication.

(5) Medication shall not be administered to any resident except on the written order of a physician. When medication requires administration by a trained person, arrangements shall be made to procure the services of such a person.

(6) Medications shall be kept in a locked cabinet.

(7) Self-administration of prescription medications shall be allowed only upon the written instructions of the attending physician and a record shall be maintained as in subsection (4) above.

(8) Residents admitted or retained for care shall not require because of illness, injury or disease, a degree of care

exceeding the skill of the operator to perform. Failure to comply with this standard shall be the basis for immediate revocation of the home's license.

Section 8. Personal Care. *In addition to patient rights Section 5(11), the following standards are considered minimal: [(1) Responsible residents shall not be detained against their will.]*

[(2) The residents shall be treated in a manner which will preserve their feelings of self-worth and human dignity; have visitation rights; the right to a degree of privacy; and be allowed to worship in the way they choose.]

[(3) A resident's correspondence shall not be opened, except as authorized by the resident's guardian or committee.]

[(4) Residents shall not be physically punished in any way. They shall not be held in seclusion for any reason and restraints shall not be used.]

[(5) Residents shall be encouraged to perform activities of daily living for themselves and shall be given assistance when necessary.]

[(6) Residents may volunteer their services to help care for the home but they shall not be required to help in the home.]

[(7) Residents shall be appropriately dressed at all times and given assistance, when needed, in maintaining proper body hygiene and good grooming.]

(1) [(8)] Each resident shall have their individual:

(a) Clean wash cloth and towel;

(b) Toothbrush;

(c) Brush and comb;

(d) Other appropriate toilet articles; and

(e) Bureau or cupboard for storage of his personal belongings.

(2) [(9)] Each resident shall have his own bed equipped with substantial springs, a clean comfortable mattress, two (2) sheets and a pillow, and such bed covering as required for resident's health and comfort.

(3) [(10)] Residents shall not be denied the privilege of rest periods in their beds.

[(11) Residents shall be encouraged to take part in social activities both within and without the home.]

Section 9. Dietary Requirements. (1) Food shall be prepared with consideration for any individual dietary requirement.

(2) Menus shall be planned and written according to a definite pattern. A written record shall be kept of all foods served, including food offered as a bedtime snack.

(3) Nutrition needs shall be met in accordance with the current recommended dietary allowances of the Food and Nutrition Board of the National Research Council. The following daily food guide for adults is based on these allowances:

(a) Milk: Appropriate servings of milk relative to resident needs. A portion may be served in cooked form such as creamed dishes, desserts, etc.

(b) Meat group: Two (2) or more servings of protein food of good quality. This can include fish, beans, poultry, and cheese.

(c) Vegetable and fruit group: Four (4) or more servings. One (1) serving of vegetables equals one-half (½) cup.

(d) Bread and cereal group: Four (4) or more servings of whole grain, enriched or restored. One (1) slice of bread equals one (1) serving. One-half (½) cup cereal equals one (1) serving. This can include corn, potatoes, or rice.

(e) Butter or margarine: Some of either each day as a seasoning, and as a spread.

(4) Other foods: Serve other foods as necessary to round out meals, satisfy individual appetites, improve flavor and meet the individual's nutritional and calorie needs. Snacks may also be used for this purpose.

(5) Food returned from residents' dishes shall not be served again in any form.

(6) Therapeutic diets: Special diets or dietary restrictions shall be medically prescribed.

(7) At least three (3) meals per day shall be served with not more than a fourteen (14) hour span between the evening meal and breakfast. Between meal snacks should be available to residents except when conflicting with special diets prescribed by a licensed physician.

(8) All food shall be stored above the floor in such a manner as to be protected from dust, flies, vermin, or other forms of contamination.

(9) Refrigerators shall have a complete seal, be clean, free of odors, and kept at a temperature below forty-five (45) degrees Fahrenheit. A thermometer shall be placed in each refrigerator and freezer.

(10) All type food showing evidence of spoilage or infestation shall be disposed of immediately upon detection.

(11) Floors, walls, ceilings, lighting fixtures, storage areas and equipment shall be kept clean and in good repair. Windows and doors shall be screened, kept in repair, and clean.

Section 10. Housekeeping and Sanitation. Each family care home shall:

(1) Be kept in good repair and shall be clean, uncluttered and sanitary at all times;

(2) Eliminate odors at their source by prompt and thorough cleaning of commodes, and other obvious sources;

(3) Screen all windows and other openings and keep curtains clean and in good repair in all windows in rooms used by residents;

(4) Maintain the premises in such a manner as to prevent infestation by rodents and insects;

(5) Give soiled clothing and linens immediate attention and not allow them to accumulate;

(6) Not permit any clothing or bedding used by one resident to be used by another until it has been laundered or dry cleaned;

(7) Change bed linens as often as necessary to provide a clean bed at all times and place rubber or other waterproof material (excluding papers) over the mattress whenever necessary;

(8) Dispose of wastes in a sanitary manner into a public sewage system where available, or if none is available, into a system which shall meet the requirements of the Department for Human Resources. Outside provisions can be allowed only if local county health departments approve this in their regulations; and

(9) Collect and dispose of all garbage, refuse, trash, and litter in compliance with applicable state and local laws and regulations. Garbage containers shall be made of metal or other impervious material and shall be water tight and rodent proof and shall have tight-fitting covers.

Section 11. Accommodations. Each family care home shall: (1) Be safe and of substantial construction and comply with applicable state and local laws relating to location, zoning, plumbing, and sanitation, including insect and rodent control;

(2) Be adequately lighted at all times by natural or artificial light including each hall, stairway, entryway, vestibule, patient area, kitchen, and bathroom;

(3) Have a water supply of a safe, sanitary quality approved by the local health department;

(4) Have an ample supply of hot and cold running water available at all times for general use;

(5) Have appropriate sanitary toilet and bathing facilities conveniently available for resident use;

(6) Have adequate ventilation in all resident use areas, and if there is no window, toilet rooms shall be vented to the outside;

(7) Have an exterior window which can be opened in each resident room;

(8) Place beds occupied by residents so that no residents may experience discomfort because of proximity to radiators, heat outlets or exposure to drafts;

(9) Not use "bunk" beds;

(10) Have beds that are no less than thirty-three (33) inches wide and six (6) feet long;

(11) Not house residents in rooms or detached buildings or other enclosures which have not been previously inspected and approved for resident use, or in basements not constructed for sleeping quarters. Approved basements must have an outside door.

(12) Not be located in a house trailer or motor homes.

(13) Ensure that porches, patios and other outside areas of the residence are of substantial construction with protective railings where necessary.

(14) Provide a heating system which can maintain an even temperature, and capable of maintaining seventy-two (72) degrees Fahrenheit in resident used areas;

(15) Have telephone service if available in the area, accessible to the residents;

(16) Have no more than three (3) persons residing in the home who are not related to the operator within the third degree of consanguinity;

(17) Provide for insect and rodent control; and

(18) Provide no less than one (1) toilet and lavatory per six (6) persons residing in the home, including residents receiving care, licensee and family.

Section 12. Safety. Each family care home shall: (1) Have a fire control and evacuation plan;

(2) Have an adequate number of ABC-rated fire extinguishers located throughout the home;

(3) Have a person in charge thoroughly oriented in the evacuation of the residents in the event of a fire; and

(4) Have non-slippery floors and shall not have scatter rugs over uncarpeted floors.

MASON C. RUDD, Chairman

ADOPTED: January 16, 1980

RECEIVED BY LRC: February 1, 1980 at 2:45 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Mason C. Rudd, Chairman, Kentucky Health Facilities and Health Services, Certificate of Need and Licensure Board, 275 East Main Street, Frankfort, Kentucky 40621.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Health Services
Certificate of Need and Licensure Board
(Proposed Amendment)

902 KAR 20:047. Nursing home operation and services.

RELATES TO: 216.405 to 216.485, 216.990(2)

PURSUANT TO: KRS 13.082, 216.425

NECESSITY AND FUNCTION: This regulation, which relates to the operation and services of nursing homes, is being promulgated to the mandate of KRS 216.425(3) that the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board regulate health facilities and health services.

Section 1. Definition: Nursing Home, General: Establishments with permanent facilities that include inpatient beds; and with medical services, including continuous nursing services, to provide treatment for patients who require inpatient care but do not currently require continuous hospital services, and who have a variety of medical conditions.

Section 2. Essential Functions of a Nursing Home. Essential functions of a nursing home are as follows:

(1) The primary function of the institution is to provide treatment services for patients who require inpatient care but do not currently require continuous hospital services, and who have a variety of medical conditions.

(2) There are arrangements for transfer of patients in need of hospital care.

(3) The institution maintains inpatient beds.

(4) There is a governing authority legally responsible for the conduct of the institution.

(5) There is an administrator to whom the governing authority delegates the full-time responsibility for the operation of the institution in accordance with established policy.

(6) One or more physicians are responsible for advising the governing authority on proper standards of medical care.

(7) Each patient is admitted on the medical authority of, and is under the supervision of a physician.

(8) A current and complete medical record is maintained for each patient.

(9) The nursing services are under the supervision of a full-time registered professional nurse; licensed graduate nurse supervision and other nursing services are continuous.

(10) There are arrangements for obtaining necessary clinical laboratory and diagnostic x-ray services.

(11) There is control of the storage and dispensing of controlled substances and other medications.

(12) Food served to patients meets their nutritional requirements, and special diets are regularly available.

Section 3. Minimum Standards for Operation of Nursing Homes. The following minimum standards of operations as set forth in this regulation shall apply to all nursing homes:

(1) Food service. The nursing home shall comply with the existing laws, rules and regulations governing the handling of food and food products in the State of Kentucky. The facilities shall be adequate to serve as many patients as the nursing home accommodates.

(2) Food handling. Dishes and eating utensils used by patients having, or suspected of having a communicable

disease, shall be handled separately from other soiled dishes and eating utensils, and in such a way as to protect nursing home personnel and patients from infection.

(3) Garbage disposal. The garbage disposal system must be approved by the Department for Human Resources. Adequate provision shall be made to prevent obvious odors, the spread of disease and unsanitary conditions resulting from the improper handling of garbage and other refuse. All containers for garbage shall be made of metal or other impervious material and shall be watertight, rodent proof, and have tight fitting covers.

(4) Laundry and noise control. The nursing home shall make provision for the proper cleaning of linen and other washable goods with special provisions for handling contaminated linen. Nursing homes maintaining and operating laundries shall provide ventilation for the elimination of steam and odors and proper insulation to prevent the transmission of noises to patient areas.

(5) Sanitation:

(a) All bedside equipment shall be cleaned after each use. All bedpans and urinals shall be sterilized after each use unless assigned to an individual patient. Approved methods of sterilizing such equipment may be one (1) of the following: Submersion in boiling water for a minimum of thirty (30) minutes; autoclaving at fifteen (15) pounds steam pressure for twenty (20) minutes; live steam sterilization for bedpans in an approved bedpan washer-sterilizer or submersion for two (2) minutes in a chlorine rinse which contains at least 100 parts per million of available chlorine.

(b) The bed linens shall be changed at least once every three (3) days or when obviously soiled.

(6) Rodent control. The premises must be kept free from rodent and insect infestation. Bath and toilet facilities must be maintained in a clean and sanitary condition at all times.

(7) Drugs and controlled substances. An adequate supply of drugs and other medicinal agents shall be available at all times to meet the requirements of the nursing home. They shall be stored in a safe manner and kept properly labeled and accessible. Narcotics and other controlled substances and poisons shall be handled in a safe manner to protect against their unauthorized use. There shall be adequate refrigeration for biologicals and drugs which require refrigeration. The existing laws, rules and regulations governing controlled substances, drugs and poisons shall be complied with.

(8) X-ray facilities. If x-ray facilities are provided in any nursing homes, there shall be ample space for the x-ray equipment, film storage, view boxes and dark room equipment. Proper precautions to protect patients and nursing home personnel against undue radiation shall be taken.

(9) Laboratory. If a laboratory is provided, there shall be ample space, equipment and supplies to meet the requirements of the nursing home.

(10) Patient accommodations:

(a) The nursing home shall provide suitable accommodations for all its patients. There shall be adequate floor space, furnishings, bed linens, and other such utensils, equipment and supplies as is reasonably required for the proper care of the patients accommodated. Proper precautions shall be taken to prevent the spread of disease. There shall be provision for the proper sterilization of all supplies, utensils and equipment and for storing them in a clean, convenient and orderly manner. An adequate system for bed patients to use in calling nurses and attendants shall be maintained. A satisfactory bed and mattress with one or more pillows of at least fifteen (15) inches by twenty (20) inches shall be provided for each patient. There shall be at least one (1) chair per patient in all patient rooms.

(b) There shall be at least one (1) employee awake and on duty at all times in each institution. In cases where restraints are used to prevent injury to the patients or personnel, these restraints shall be of a type which can be quickly removed in case of fire. Doors to patient rooms shall not be locked when the rooms are occupied, except in psychiatric or detention units.

(11) Water supply. The water supply shall be approved by the Department for Human Resources. There shall be an ample supply of hot water available at all times for general use.

(12) Employee health examination. No person who is infected with a communicable disease shall be employed in any nursing home. Prior to employment, or immediately following, each person shall submit to a test for tuberculosis to determine his freedom from communicable tuberculosis. All employees shall have an annual test for tuberculosis. Nothing in this section shall affect any rule or regulation of any nursing home, which requires other examinations or tests to determine their employees' freedom from other communicable diseases.

(13) Reports. Each institution shall furnish an annual report to the Department for Human Resources on forms supplied by the department for this purpose. This report shall consist of the total number of admissions per year, the total number of discharges per year, bed capacity, average percentage of bed occupancy, total patient days, average length of patient stay in the nursing home, and such other statistical information that is requested.

(14) Medical records:

(a) Organization: The responsibility for supervision, filing, and indexing of medical records shall be delegated to a responsible employee of the nursing home.

(b) Indexing: Medical records shall be properly indexed and systematically filed for ready access to properly authorized persons.

(c) Ownership: Records of patients are the property of the institution and shall not be taken from the nursing home property except by court order. This does not preclude the routing of the patient's record or portion thereof, including x-ray film, to physicians for consultation. Medical records shall be made available, when requested, for inspection by duly authorized representatives of the licensing agency.

(d) Content: Adequate and complete medical records shall be prepared for all patients admitted to the nursing home. All notes shall be legibly written or typed and signed. A minimum medical record shall include the following information:

1. Name and address of person or agency responsible for patient;
2. Identification data (name, address, age, sex, marital status);
3. Date of admission;
4. Date of discharge;
5. Referring and attending physicians' names;
6. History and physical examination;
7. Special examinations, if any, such as consultations, clinical, laboratory, x-ray;
8. Provisional or working diagnosis;
9. Doctor's orders, dated and signed by the physician;
10. Progress notes, dated and signed by the physician;
11. Nurses' notes;
12. Temperature chart including pulse and respiration;
13. Final diagnosis;
14. Condition on discharge; and
15. In case of death, autopsy findings, if performed.

(e) Physician's responsibility: It shall be the responsibility of each attending physician to complete and sign the medical record of each patient as soon as practicable after discharge.

(f) Orders for medication: All medical records shall contain the orders for medication and treatment written in ink and signed by the prescribing physician, and if given verbally, undersigned by him upon his next visit to the institution. A record of medication administered to the patient shall be included in the record.

(g) Retention of records: All medical records shall be retained for a minimum of five (5) years and for such additional time as deemed necessary by the governing body of the facility concerned based upon all relevant factors.

(15) Fire control or disaster plan. The nursing home shall have a written procedure to be followed in case of fire, explosion or other emergency. It shall specify persons to be notified, locations of alarm signals and fire extinguishers, evacuation routes, procedures for evacuating helpless patients, frequency of fire drills, and assignment of specific tasks and responsibilities to the personnel of each shift.

(a) The plan shall be developed with the assistance of qualified fire and safety experts.

(b) All personnel shall be trained to perform assigned tasks.

(c) Simulated drills testing the effectiveness of the plan shall be conducted on each shift at least three (3) times a year.

(d) The plan shall be posted throughout the facility.

(16) Patient rights: Patient rights shall be provided for pursuant to KRS 216.515 to 216.530.

MASON C. RUDD, Chairman

ADOPTED: January 16, 1980

RECEIVED BY LRC: February 1, 1980 at 2:45 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Mason C. Rudd, Chairman, Kentucky Health Facilities and Health Services, Certificate of Need and Licensure Board, 275 East Main Street, Frankfort, Kentucky 40621.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Health Services
Certificate of Need and Licensure Board
(Proposed Amendment)

902 KAR 20:050. Intermediate care facilities; operation and services.

RELATES TO: KRS 216.405 to 216.485, 216.990(2)

PURSUANT TO: KRS 13.082, 216.425

NECESSITY AND FUNCTION: This regulation, which relates to the operations and services of intermediate care facilities, is being promulgated pursuant to the mandate of KRS 216.425(3) that the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board regulate health facilities and health services.

Section 1. Definition: Intermediate care services are provided intermittently on a twenty-four (24) hour basis by establishments with permanent facilities and health related services to patients who do not require the degree of care

and treatment which a hospital or skilled nursing facility is designed to provide, but who because of their mental or physical condition require care and services (above the level of room and board) which can be made available to them only through institutional facilities on an inpatient basis.

Section 2. Essential Characteristics: All intermediate care services shall have provisions for the following essential characteristics:

- (1) A governing authority legally responsible for the conduct of the facility;
- (2) An administrator licensed by the Kentucky Board of Licensure for Nursing Home Administrators to whom the governing authority delegates full-time responsibility for the operation of the facility in accordance with established policy;
- (3) Inpatient care;
- (4) Twenty-four (24) hour supervision (at various levels) according to patient need;
- (5) Diagnostic care and evaluation according to need;
- (6) Treatment and/or training of the type and frequency required by specific patient needs as detailed in an individual "plan of care;"
- (7) Cooperation with appropriate community planning and referral agencies where available for admission and discharge of patients;
- (8) Social services as needed by the patients through direct provision or arrangement;
- (9) A current and complete record maintained for each patient;
- (10) An organized food service which meets the nutritional needs of the patients, with special diets regularly available;
- (11) A plan for independent and group activities;
- (12) A written patient care policy governing patient treatment in the facility;
- (13) Maintaining effective arrangements for required institutional services through a written agreement with an outside resource in those instances where the facility does not employ a qualified professional person to render a required service. The terms of agreement with each such resource are delineated in writing and signed by the administrator or authorized representative and the resource;
- (14) Written transfer agreements with other health facilities in the service area which will provide a level of inpatient care not provided by the intermediate care facility. Any facility which does not have such an agreement in effect but which is found by the survey agency to have attempted in good faith to enter into such an agreement with another health facility shall be considered to have such an agreement in effect if and for so long as the survey agency finds that to do so is in the public interest and essential to assuring intermediate care facility services for eligible persons in the community;
- (15) Intermittent appraisal and intervention by trained nursing personnel is on a twenty-four (24) hour basis;
- (16) Medical management by a licensed physician and scheduled intermittent diagnostic care is provided;
- (17) Restorative nursing care is provided to each patient to achieve and maintain the highest possible degree of function, self-care and independence.

Section 3. Licensure. No person shall provide intermediate care services without having first obtained a license from the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board. Licenses

issued by the board shall include designation thereon of "conforming" or "non-conforming" with the standards set forth in this regulation. A license shall not be issued to any facility which cannot meet the minimum requirements as set forth in the life safety codes and standards, and federal, state and local requirements for environment and sanitation as set forth in these standards. The license shall be posted in a public area of the facility in plain view of visitors. An "existing facility" is defined as a long term care facility in operation prior to January 1, 1974 and continuously thereafter.

Section 4. Minimum Standards for Operation: The following minimum standards for operation as set forth in this regulation shall apply to all intermediate care facilities services in a distinct part, or other facilities providing intermediate care services. (1) Organization:

- (a) The facility shall comply with all applicable laws and regulations.
 - (b) The facility shall have a governing authority that has overall legal responsibility for the conduct of the facility.
 - (c) The governing authority shall establish bylaws or policies in accordance with legal requirements, setting forth the purposes of the facility and the means of fulfilling them.
 - (d) The facility shall admit only those persons whose needs can be met by the facility directly or in cooperation with community resources or other providers of care with which it is affiliated or has contracts.
- (2) Administrative management:
- (a) The facility shall have available a written statement of objectives, goals and policies which shall include a statement of rights of its patients and its relationship to its patients or their surrogates.
 - (b) The administrator may or may not serve in the capacity of supervisor, but shall be responsible for satisfactory compliance with state and local laws, rules and regulations: The administrator:
 1. Shall be licensed and be responsible for meeting all laws governing licensure requirements for intermediate care facilities;
 2. May be the director of nursing services in a facility of sixty (60) beds or less;
 3. Shall, in his absence, designate a responsible person on his staff to act in an emergency during his absence, and shall designate a full-time person in charge of each shift in the facility to be responsible for patient care;
 4. Shall be responsible for the services required in the daily care of the patients and for supervision of the personnel who are employed;
 5. Shall be in good physical and mental health, have the ability to establish a program to meet the needs of the patients in relation to their community and families, and be capable of directing and supervising persons working in a facility;
 6. Shall attend education programs appropriate to the responsibilities of the position and shall arrange for other professionals to attend appropriate educational programs in supervision, subjects related to personal care, activities, nutrition and other pertinent subjects as often as possible; and
 7. Shall be responsible for and participate in recruiting, hiring, assigning and development of the staff.

(c) The administrator shall be responsible for coordinating and directing the day-to-day activities of the facility in accordance with the policies established by the governing body. He shall:

1. Serve as liaison between the governing authority and the staff of the facility;
2. Assist the governing authority in the formulation and implementation of policies;
3. Develop an organizational structure including lines of authority, responsibility and communication subject to the approval of the governing authority; and
4. Perform other duties that may be designated to him by the governing authority.

(d) The administrator shall appoint qualified personnel as needed to assume the responsibility for the routine functioning of the various aspects of the program. He shall:

1. Carry out the administration of their program in keeping with established policies;
2. Participate in decisions affecting program development such as staffing and budgeting; and
3. Coordinate activities and policies through regularly scheduled meetings of the appropriate staff members.

(e) According to the policies set by the governing authority, the administrator shall contract for professional and supportive services as appropriate to the needs of the patient. These contracts shall be available for review by appropriate representatives of the Department for Human Resources. The contractors shall:

1. Be required to meet the standards as herein contained; and,
2. Coordinate the service(s) they render to the existing patient care program.

(f) Reports:

1. Administrative reports shall be established, maintained, and utilized as necessary to guide the operation, and reflect the program of the facility. Such reports shall include, where applicable: minutes of the governing body, financial meetings and reports, personnel records, inspection reports, incident investigation reports, and other pertinent reports made in the regular course of the business of the intermediate care facility.

2. Each facility shall furnish an annual report to the Department for Human Resources which shall consist of statistical data on utilization of services, plus other information as requested by the Department for Human Resources on forms supplied by the department; however, financial records previously submitted to the department for Medicare and/or Medicaid shall be excluded.

(g) There shall be full disclosure annually to the licensure board of the names and addresses, and any changes in these, if:

1. Each person having (directly or indirectly) ownership interest of ten (10) percent or more in such facility; and
2. Each officer and director of the corporation where a facility is organized as a corporation; and
3. Each partner where a facility is organized as a partnership; and prompt reporting if;
4. Any change of ownership occurs.

(h) Admission and discharge:

1. The facility shall have written policies which provide that a patient is admitted when it has been determined that the patient is in need of the care and services provided by such facility consistent with the medical recommendation stated in subsection (11) of this section.

2. As changes occur in their physical or mental condition, necessitating service or care which cannot be adequately provided by the facility, patients, upon physician's orders, (except in cases of emergency) shall be transferred promptly to hospitals, skilled nursing facilities or other appropriate facilities; or services shall be contracted for from another community resource to be provided either in the

intermediate care facility or in the resource facility as an outpatient.

3. It may be, by reason of remote location or other good and sufficient reason, that the facility is unable to effect such an arrangement with a hospital, skilled nursing facility or other type of facility required for appropriate patient care. These findings may be made by the Department for Human Resources when:

a. There is no general hospital or skilled nursing facility serving the area in which the facility is located; or

b. There are one (1) or more general hospitals or skilled nursing facilities serving the area and the facility has attempted in good faith and has exhausted all reasonable possibilities to enter into an agreement with such other facilities; and

c. The facility has provided copies of letters, records of conferences, or other evidence to support its claim that it has attempted in good faith to enter into an agreement;

d. Hospitals or skilled nursing facilities in the area have, in fact, refused to enter into an agreement with the facility in question.

4. Similarly, as validated changes, and progress occur which would enable the patient to function in a less structured and restrictive environment, the facility shall offer assistance in making arrangements for patients to be transferred to facilities providing appropriate services and the less restrictive environment cannot be offered at the facility.

5. Except in an emergency, the patient, his next of kin, the attending physician, and the responsible agency, if any, are consulted in advance of the transfer, release or discharge of any patient, and social services, or other means, are utilized to assure that adequate arrangements exist for meeting his needs through other resources.

6. Upon the direction of a qualified physician or physicians, the facility shall have the right to discharge to an appropriate resource, any patient for whom such action is indicated.

7. No patient shall knowingly be admitted to an intermediate care facility with a communicable disease, which is reportable to the health department, except a (non-infectious) tuberculosis patient under continuing medical supervision for his/her tuberculosis disease.

(3) Personnel and staffing:

(a) The facility shall employ, or offer access to, a sufficient number of qualified personnel as may be required to provide services necessary to fully implement the facility's program. Responsible staff member shall be on duty and awake at all times to assure prompt, appropriate action in cases of injury, illness, fire, or other emergencies.

1. Volunteers shall be used, when available, to supplement staff, but shall not be counted on to make up minimum staffing requirements.

2. The working hours of the personnel shall be spaced over all shifts so that the needs of the patients are adequately met over any twenty-four (24) hour period.

3. The number and classification of personnel to be provided, including staff to provide personal care, shall be based on the following: number of patients; amount and kind of personal care, nursing care, supervision, and program needed to meet the needs of the patients as determined by the definition and essential characteristics of this regulation; and/or, medical orders.

(b) Written job descriptions and standards of qualifications shall be developed for each category of personnel. Job descriptions shall include necessary qualifications, lines of authority and specific duty assignments. Job descriptions shall be reviewed and revised as necessary.

(c) Current employee records shall be maintained and shall include a resume of each employee's training and experience, evidence of current licensure or registration where required by law, health records and evaluation of performance, along with employee's name, address and social security number.

(d) Supportive personnel, consultants, assistants and volunteers shall be supervised and shall function within the policies and procedures of the facility.

(e) Each employee shall present, at time of employment, or within one (1) week of employment, evidence of freedom from communicable disease.

(f) All employees shall have a test for tuberculosis either prior to or within the first week of employment and annually thereafter.

(g) The staff shall be knowledgeable and well-trained in relation to policies and procedures regarding their roles within the program.

(h) There shall be a planned in-service program including orientation, skilled training and ongoing education provided for all levels of employees.

(i) Immediate supervision of the facility's health services, on all days of the week, shall be by a registered nurse or a licensed practical (or vocational) nurse employed full-time on the day shift.

(j) In the facility where a licensed practical (or vocational) nurse serves as health services supervisor, consultation shall be provided by a registered nurse under formal contract at regular intervals, but not less than four (4) hours weekly.

(4) Community involvement and relations:

(a) The facility shall develop its programs and services to meet the needs of the community which it serves.

(b) Identification of available services and resources, i.e., emergency, transportation, medical care shall be made and use of these services shall be in cooperation with other groups (in the service community) concerned with health and welfare. The facility shall have communication with other facilities in the community to allow temporary or permanent placement of patients at the appropriate levels of care when advisable for the benefit of the patients.

(c) The staff and/or administrator of the program shall be encouraged to be involved in interagency and community planning and activities.

(d) If and when the facility conducts or participates in public information programs to promote understanding of the facility's programs and goals, either separately or in cooperation with agencies and groups in the service community, or in fund raising, it shall protect the confidential relationship of persons served.

1. The program and its representatives shall employ only ethical methods of publicity, promotion and solicitation of funds. Promotional materials shall not contain portrayals of the disabled as helpless.

2. No use shall be made of any living, deceased or disabled person's name or picture without prior permission of the individual or guardian concerned.

3. No rights shall be granted to profit making or non-profit making groups to couple their support of programs for the disabled with their sales promotions in such a manner as to exploit the disabled.

(5) Case records:

(a) The facility shall develop and maintain a system of records retention and filing to insure completeness and prompt location of each patient's records. These records shall be the property of the facility and shall be held confidential. The records shall be in ink or typed and shall be

legible. Each entry shall be dated and signed. These shall include but not limited to the following:

1. Identification data including the patient's name, address and social security number (if available); name, address and telephone number of referral agency; name and telephone number of personal physician; name, address and telephone number of next of kin or other responsible person.

2. The patient's physician shall transmit a medical evaluation including medical history, physical examination and diagnosis. This admission information shall also include current medical findings, summary of the course of treatment in the transferring institution and verification of freedom from all contagious disease. The medical evaluation may be a copy of the discharge summary or history and physical report from a hospital or skilled nursing facility if done within fourteen (14) days prior to admission. The physician's orders shall include all medication, diet, treatment and any other orders required for the safety and well-being of the patient. These shall be dated and signed by the physician. The discharge and/or release summary shall be dated and signed by the attending physician.

3. A progress record shall be maintained relating to patient goals. It shall indicate any changes in the patient's condition, actions, responses, attitude, appetite and other changes as noted by the staff; and shall include a discharge summary within one (1) month of discharge from the facility.

4. If consultants are involved in the intermediate care program, they shall make a written report of their findings and recommendations at the time of their visits. These shall be included in the patient's record.

5. A medication sheet shall be maintained which contains the date, time given, name of medication or prescription number, dosage and name of prescribing physician.

6. Nurse's notes shall indicate changes in patient's condition, actions, responses, attitudes, appetite, etc. These changes shall be recorded as they occur. Nursing personnel shall make notation of significant response to special treatment, medication, etc. There shall be a written assessment of the patient's general condition at least monthly by the nursing supervisor.

7. Reports of social services, dental, laboratory, x-ray and special reports shall be included in the case record.

8. A full written report of any incident or accident involving a patient, including medication errors or drug reactions, shall be made and signed by the administrator/health services supervisor and any staff member who may have been witness to the incident.

9. Records shall be retained for a minimum of five (5) years and for such additional time as deemed necessary by the governing body of the facility.

(b) Storage and transfer of records:

1. After death or discharge, the completed case record shall be placed in an inactive file and retained in accordance with applicable regulations governing the storage and retention of medical records.

2. In the event of a transfer to another health care facility, a copy of the patient's record or summary thereof, shall accompany the patient.

3. In multi-level facilities, the complete patient record shall be transferred with the patient.

(c) Responsibility for medical records: If the facility does not have a full or part-time medical records librarian, an employee shall be assigned to the responsibility of assuring that the medical records are maintained, completed and preserved according to *paragraph* [Section 4, subsection (5).] (a)[,] 9, of this subsection [in this regulation].

(6) Administrative records:

(a) The facility shall maintain a bound, permanent, chronological patient registry showing date of admission, name of patient, and date of discharge.

(b) The facility shall keep records of any personal money, regardless of source, or valuables kept by the facility for a patient. When purchases are made for a patient from personal monies, proper accounting shall be made.

(c) The facility shall require and maintain written recommendations or comments from consultants regarding the program and its development on a per visit basis.

(d) Menu and food purchase records shall be maintained.

(e) There shall be quarterly reports for all employees as needed for Social Security and Unemployment Compensation. Copies of these reports shall be made available to the department upon request.

(7) Fire control or disaster plan:

(a) The facility shall have a written procedure to be followed in case of fire, explosion or other emergency. It shall specify persons to be notified, locations of alarm signals and fire extinguishers, evacuation routes, procedures for evacuating patients, frequency of fire drills, and assignment of specific tasks and responsibilities to the personnel of each shift.

1. The plan shall be developed with the assistance of qualified fire and safety experts.

2. All personnel shall be trained to perform assigned tasks.

3. Simulated drill testing the effectiveness of the plan shall be conducted involving each shift at least one (1) time per quarter.

4. The plan shall be posted throughout the facility.

(b) Fire extinguishers, alarm signals and exits shall be clearly marked and visible.

(8) Environment:

(a) Infection control:

1. The intermediate care facility shall provide a sanitary environment to avoid sources and transmission of infections.

2. There shall be a plan for isolation of patients with contagious diseases.

(b) Housekeeping services:

1. The facility shall provide sufficient housekeeping and maintenance personnel to maintain the exterior and interior of the facility in a safe, clean, orderly and attractive manner.

2. Housekeeping personnel and staff, using accepted procedures and practices, shall keep the facility free from offensive odors, safety hazards, and accumulations of dirt, rubbish and dust.

3. Floors shall be cleaned regularly. Polishes on floors shall provide a non-slip finish; throw or scatter rugs shall not be used except for non-slip entrance mats.

4. Walls and ceilings shall be maintained free from cracks and falling plaster, and shall be cleaned and painted regularly.

5. Deodorizers shall not be used to cover odors caused by unsanitary conditions or poor housekeeping practices.

6. Combustibles such as cleaning rags and compounds shall be kept in closed metal containers.

7. The grounds shall be kept free from refuse and litter. Areas around buildings, sidewalks, gardens and patios shall be kept clear of dense undergrowth.

8. The facility shall be maintained free from insects and rodents.

9. A pest control program shall be in operation in the facility. Pest control services shall be provided by

maintenance personnel of the facility or by contract with a pest control service.

10. Windows and doors shall be appropriately screened.

11. Harborage and entrances for insects and rodents shall be eliminated.

12. Garbage and trash shall be stored in areas separate from those used for the preparation and storage of food and shall be removed from the premises regularly. Containers shall be cleaned regularly.

13. Bathtubs, shower stalls and/or lavatories shall not be used for laundering, janitorial or storage purposes.

14. All cleaning compounds, insecticides and all other potentially hazardous compounds or agents shall be stored in locked cabinets or rooms.

(9) Transportation:

(a) If transportation of patients is provided by the facility to community agencies or other activities, the following shall apply:

1. Special provision shall be made for patients who use wheelchairs.

2. An escort or assistant to the driver shall be provided in transporting patients to and from the facility if necessary for patient's safety.

(b) The facility shall arrange for appropriate transportation, if available, when necessary for medical emergencies.

(10) Communicable disease policies:

(a) The administrator shall assume the responsibility of assuring that there is a minimum danger of transmission of communicable diseases.

(b) No person with a serious communicable disease shall knowingly be admitted to the facility. If, after admission, such a condition is suspected or diagnosed, the individual shall be placed in isolation until a transfer from the facility can be arranged. No individual may remain in the facility for more than seventy-two (72) hours after a diagnosis of a serious communicable disease has been made except a (non-infectious) tuberculosis patient under continuing medical supervision for his or her tuberculosis disease.

(c) A patient may be admitted with a diagnosis of tuberculosis with a physician's statement indicating that the patient is not infectious to others.

(11) Medical supervision of patients: The facility shall maintain policies and procedures to assure that each patient shall be under the medical supervision of a licensed physician.

(a) The patient (or his guardian) shall be permitted his choice of physician.

(b) The physician shall visit the patients as often as necessary and in no case less often than every sixty (60) days, unless justified otherwise and documented by the attending physician.

(c) Physician services shall include a complete physical examination at least annually and formal arrangements to provide for medical emergencies on a twenty-four (24) hour, seven (7) days-a-week basis.

(12) Psychiatric emergencies:

(a) If a patient becomes disturbed or unmanageable, his doctor will be notified immediately and the patient will be seen as soon as possible.

(b) Restraints can be used if ordered by the attending physician. In an emergency, restraints may be used temporarily, but in no case for a period to exceed twelve (12) hours. Restraints shall be applied only by personnel trained in proper application and observation of this equipment. Restraints as referred to by this regulation shall be those devices utilized to confine a patient that has become unmanageable thus requiring restraints as protection against

[self-] endangering acts to *self*, other patients or staff. In no case shall a locking device be used.

(c) Mechanical restraints shall be employed only when absolutely necessary to protect the patient from injury to himself or to others. This does not include safety devices such as Posey vests, and other similar non-locking devices.

1. The facility shall have a written policy that defines the use of restraints and a mechanism for monitoring and controlling their use.

2. Restraints or safety devices shall not be employed as a punishment, for the convenience of staff or as a substitute for appropriate programs.

(d) During the psychiatric emergency an employee shall remain in the area of the patient under restraint at all times.

(e) The reason for ordering and using restraints shall be recorded in the clinical record. There shall be written policies covering the use of restraints.

(13) Patient care and safety:

(a) Missing, lost or runaway patient procedures shall include:

1. A written procedure for all three (3) shifts, which will specify in a step-by-step manner[,] the actions which shall be taken by staff when a patient is determined to be lost, runaway, unaccounted for or on other unauthorized absence.

2. Specific, individualized staff responsibilities for search of all locations in the facility and of its surroundings and, if necessary, notification of specific authorities and law enforcement agencies for assistance.

(b) A patient shall not be held in isolation except in the case of an emergency or suspicion of communicable disease; and in the case of an emergency, shall be attended by an employee until a change of condition has occurred or until the patient is transferred to a different facility.

(c) No patient, whose need for care shall exceed the abilities of the personnel of the facility to provide, shall be retained in that facility for a period longer than is required to obtain transfer to a facility where the required level of care can be provided.

(d) Utmost safety precautions relating to conditions and maintenance of floors, steps, doorways, furniture placement, beds, equipment of any type which may be contacted by patient (including heating and cooking equipment) shall be taken to prevent injury or accident. Poisonous cleansing supplies shall be kept in locked storage areas.

(14) Patient accommodations:

(a) Furnishings:

1. There shall be a standard size bed for each patient which is at least thirty-six (36) inches wide, of standard length with head board and foot board, and which is of sturdy construction and in good repair. Cots, roll-away, double or folding beds shall not be used.

2. Each bed shall be provided with satisfactory type springs or similar support structure in good repair and a clean, firm, comfortable mattress and covers of appropriate size for the bed.

3. Each bed shall be provided with a minimum of one (1) clean, comfortable pillow. If the pillow is not made with a waterproof washable fabric, the pillow shall be sterilized after it has been used by one (1) patient before it is used by another.

4. Bedroom windows shall have window shades or equivalent in good repair.

5. For each patient unit, the following shall be furnished: individual reading light; bedside cabinet; comfortable chair; accessible storage space for clothing and other possessions.

6. Each patient's room shall have a night light. In multipatient rooms, each bed shall have flame retardant cubicle curtains or partitions.

7. There shall be a sufficient number of tables provided that can be rolled over a patient's bed, or one that can be placed next to a bed to serve every patient that does not eat in a dining room or area.

8. Each living room or lounge area and recreation area used for patients shall be provided with an adequate number of reading lamps, tables and chairs or settees. These furnishings shall be well constructed and of satisfactory design for the patients.

9. Dining room furnishings shall be adequate in number, well constructed, and of satisfactory design for the patients.

10. *Each patient shall be permitted to have his own radio and/or television set in his room unless it interferes with or is disturbing to other patients.*

(b) Equipment: There shall be a sufficient quantity of patient care equipment of satisfactory design and in good condition to carry out established patient care procedures. This shall include, but not be limited to, the following:

1. Wheelchairs with brakes;
2. Walkers;
3. Metal bedside rails;
4. Bedpans and urinals (permanent or disposable);
5. Emesis basins and wash basins (permanent or disposable);
6. Footstools;
7. Bedside metal commodes;
8. Foot cradles;
9. Foot boards;
10. Under the mattress bed boards;
11. Trapeze frames;
12. Transfer board; and
13. An autoclave for sterilization of nursing equipment and supplies or an equivalent alternate method of sterilization is provided.

(c) Linens: There shall be a sufficient supply of linen and bedding in good condition to provide proper care and comfort to the patients. The following procedures will be followed for the handling of soiled and cleaned linen:

1. Soiled linen shall be placed in washable or disposable containers, transported in a sanitary manner and stored in separate, well-ventilated areas in a manner to prevent contamination and odors.

2. Soiled linen shall not be permitted to accumulate excessively in any area of the facility.

3. Soiled linen shall be handled and stored in such a manner as to prevent contamination of clean linen. Equipment of areas used to transport or store soiled linen shall not be used for handling or storing of clean linen.

4. Soiled linen shall not be stored, laundered, rinsed or stored in bathrooms, patients' rooms, kitchens or food storage areas.

5. Handwashing facilities with hot and cold running water, soap dispenser and paper towels shall be available in the laundry area where soiled linen is handled or sorted.

6. Personal laundry of patients, or staff shall also be collected, transported, sorted, washed and dried in a sanitary manner, separate from bed linens.

7. Clean linen shall be sorted, dried, ironed, and folded in a specified area separate from soiled linens and in a sanitary manner.

8. Clean linen shall be transported, stored and distributed in a sanitary manner.

9. Clean linen and clothing shall be stored in clean, dry, dust-free closets on each floor that are easily accessible to

the nurses' station and such closets shall not be used for any other purpose.

10. When feasible, arrangements shall be made so that patients who wish to do so have a safe and convenient place to wash out and dry a small amount of personal laundry.

11. When applicable, laundry personnel shall be appropriately uniformed and adequate storage space shall be provided for the storage of their street clothing.

(15) *Patients' rights: Patient rights shall be provided for pursuant to KRS 216.515 to 216.530.* [Policies governing patient rights:]

[(a) The patient's family, guardian, or committee appointed by the state authority responsible for the patient, and if indicated, the private or public agency financially responsible for his care, shall be notified immediately, if possible, of accidents, sudden illness, disease, unexplained absences, or anything unusual happening to the patient.]

[(b) The patient's family, guardian, or committee and, if indicated, the private or public agency financially responsible for his care, shall be notified, if possible, prior to the patient being transferred to a hospital, to another facility, or discharged.]

[(c) The facility shall provide and maintain an adequate system for indentifying each patient's personal property and facilities for safekeeping of his valuables. Each patient's clothing and other property shall be reserved for his own use.]

[(d) A written account, available to patients and their families is maintained on a current basis for each patient with written receipts for all personal possessions and funds received by or deposited with the facility and for all disbursements made to or on behalf of the patients.]

[(e) The facility shall return to the patient his valuables, personal possessions, and any unused balance of monies from his account at the time of his transfer or discharge from the facility. In case of his death, or for valid reasons when he is transferred or discharged, they shall be returned promptly to any legally authorized person.]

[(f) Every patient shall be permitted and/or assisted in attending religious services if he desires. His spiritual advisor shall be permitted to visit him at all reasonable hours. Privacy for consultation with his spiritual advisor and for communion shall be provided.]

[(g) Visitors shall be permitted for each patient. Provision shall be made for privacy with his visitors, physician, and any agency representative who has a responsibility for his care.]

[(h) Each patient shall be permitted to have his own radio and/or television set in his room unless it interferes with or is disturbing to other patients.]

[(i) Each patient shall be permitted to send and receive mail. His mail shall be delivered to him unopened unless the patient's physician has requested in writing that the mail be reviewed. His outgoing mail shall not be censored.]

[(j) Patients shall have access to a telephone at a convenient location within the building for making and receiving telephone calls.]

[(k) Patients shall be permitted to go outdoors and leave the premises as they wish to visit, shop, attend church, see a movie, attend a social function, or for any similar reason, unless a legitimate reason can be shown for refusing such activity.]

Section 5. Services-General: All programs and services shall have: (1) Written policies and procedures which govern all areas of services provided by the facility which

shall be developed with the assistance of a registered nurse, and/or other professional staff employed by the facility or under contract to the facility.

(2) An orientation program conducted for all new employees that includes review of facility policies, patient care and service policies, and emergency and disaster instructions.

Section 6. Nutrition and Dietary Services: The facility shall provide or contract for food service to meet the dietary needs of the patients including modified diets or dietary restrictions as prescribed by the attending physician.

(1) Director of food service: Each facility shall have a full-time person qualified by training and experience designated by the administrator, responsible for the total food service operation of the facility and who shall be on duty a minimum of thirty-five (35) to forty (40) hours each week. Such a person may be a qualified dietitian or nutritionist. If the facility provides therapeutic diets, and the food service director is not a qualified dietitian or nutritionist, consultation by a qualified dietitian shall be provided or the diets shall be reviewed and approved by the attending physician.

(2) Dietary staffing: There shall be sufficient number of food service personnel employed and their working hours, schedules of hours, on duty and days off shall be posted. Employees personal hygiene:

(a) No person, while afflicted with any disease in a communicable stage, or while a carrier of such disease, or while afflicted with boils, infected wounds, sores, or acute respiratory infections, shall work in areas in any capacity in which there is likelihood of such person contaminating food, or food surfaces with pathogenic organism, or transmitting disease to other individuals.

(b) If any food service personnel are assigned duties outside the dietary department, the duties shall not interfere with the sanitation, safety or time required from regular dietary assignments.

(c) Employees shall wear apparel appropriate to their jobs and shall adhere to good sanitation practices.

(d) Hairnets, caps or other effective hair restraints shall be used by all employees (male and female) engaged in the preparation and serving of food.

(e) Dietary employees shall not use tobacco in any form while engaged in any dietary department procedure.

(3) Food service functions and areas:

(a) Physician's diet order: The diet order shall be specific, complete and in writing.

(b) Menu planning:

1. Menus shall be planned, written and rotated according to a definite pattern. Nutrition needs shall be met in accordance with the current recommended dietary allowances of the nationally accepted dietary authorities, and in accordance with physician's orders.

2. Meals shall correspond with the posted menu; when changes in the menu are necessary, substitutions shall provide equal nutritive value and the changes shall be recorded on the menu and kept on file for thirty (30) days.

3. The daily menu shall include daily diet for all modified diets served within the facility based on an approved diet manual. (The diet manual shall be a current manual with copies available in the dietary department, that has the approval of the professional staff of the facility. The diet manual shall indicate nutritional deficiencies of any diet. The dietitian shall correlate and integrate the dietary aspects of the patient care with the patient and pa-

tient's chart through such methods as patient instruction, recording diet histories and participation in rounds and conferences.)

(c) Quality of food:

1. At least three (3) meals or their equivalent shall be served daily with not more than a fourteen (14) hour span existing between substantial evening meal and breakfast.

2. Meals shall be served at regular times with between meals or bedtime snacks of nourishing quality offered.

(d) Preparation and serving of food: Foods shall be prepared by methods that conserve nutritive value, flavor and appearance and attractively served at the proper temperatures, and in a form to meet the individual needs. (A file of tested recipes, adjusted to appropriate yield shall be maintained.)

1. Food shall be cut, chopped or ground to meet individual needs. If a patient refuses foods served, substitutions shall be offered.

2. Trays provided bedfast patients shall rest on firm supports such as overbed tables. Sturdy tray stands of proper height are provided for patients able to be out of bed.

3. Correct positioning of the patient to receive his tray shall be the responsibility of the direct patient care staff. Patients requiring help in eating shall be assisted by trained personnel.

4. Adaptive self-help devices shall be provided to contribute to the patient's independence in eating.

(e) Maintenance of sanitary conditions:

1. Equipment and work areas shall be clean and orderly. Effective procedures for cleaning all equipment and work areas shall be followed consistently to safeguard the health of the patient. The dietary department shall be routinely inspected and approved by the state or local health agencies as a food handling establishment. Written reports of the inspection shall be on file with recommendations.

2. Dry or staple food items shall be stored at least six (6) inches off the floor in a ventilated room which is not subject to sewage or waste water back-flow, or contamination by condensation, leakage, rodents, or vermin.

3. All cleaning agents and supplies shall be stored separately from food supplies.

4. All perishable foods shall be refrigerated at the appropriate temperature and in an orderly and sanitary manner. All refrigerators shall have thermometers conveniently located to spot check frequently.

5. Foods being displayed or transported shall be protected from contamination by being properly covered.

6. Only appropriate personnel shall be allowed in the food production and serving areas of the dietary department at any time.

7. Where mechanical dishwashers are used, dishwashing procedures and techniques shall be well-developed, understood, and carried out in compliance with the state and local health codes and with periodic check on: detergent dispenser operation, washing, rinsing, and sanitizing temperature of 180 degrees Fahrenheit for rinse cycle, machine and jets.

8. Where dishes are washed manually, the following techniques shall be employed: A three (3) compartment sink shall be provided; the utensils shall be washed in hot water at a temperature of 110 to 120 degrees Fahrenheit containing an adequate amount of an effective soap or detergent. Water shall be kept clean by changing it frequently.

9. Sanitizing of hand-washed dishes: Following hand washing, all utensils shall be sanitized by either submerging

all utensils for thirty (30) seconds in clean water maintained at a temperature of 180 degrees Fahrenheit, or more, or all utensils shall be submerged for at least two (2) minutes in a hypochlorite solution. The solution shall be made up with chlorine concentration of at least 100 parts per million and shall be discarded when the chlorine concentration goes below fifty (50) parts per million. All hypochlorite solutions shall be prepared fresh at least three (3) times each day prior to its use in sanitizing the dishes used at each main meal period, and at least twice each day if only glassware is sanitized. Soaps, water softeners, washing compounds and detergents shall not be added to hypochlorite solutions. Utensils should be racked by baskets so that all surfaces will be reached by the chemical solution while submerged. Other chemical sanitizing solutions shall be approved for use by the state health officer in which case the concentration will be specified.

10. Thermometer: A suitable thermometer shall be provided for frequent determination of the temperature of the water used for sanitizing, washing, and rinsing utensils.

11. All garbage and kitchen refuse shall be disposed of through a disposal or kept in leak proof, nonabsorbent containers with close fitting covers and shall be disposed of daily in a manner that will not permit transmission of disease, a nuisance, or a breeding place for flies. All garbage containers shall be thoroughly cleaned inside and out each day.

Section 7. Activities and Therapeutic Recreation: (1) All facilities shall provide or shall designate a person as an activity director who is responsible for developing and implementing the activity program.

(2) Patients, both ambulatory and non-ambulatory, are encouraged, but not forced, to participate in planned activities appropriate to the patients' needs.

(3) The patient activities program is designed to:

(a) Stimulate physical and mental abilities to the fullest extent;

(b) Encourage and develop a sense of usefulness and self respect;

(c) Include activities which inhibit, prevent, or overcome the development of symptoms of physical and mental regression due to illness or old age;

(d) Include, whenever possible, the patient and his family in planning of and participation in activities;

(e) Be of sufficient variety that they meet the needs of the various types of patients in the facility;

(f) Include religious activities for each patient if it is the desire of the patient to participate; requests from a patient to be seen by a clergyman are acted upon as soon as possible, and an area for consultation is made available to the patient who desires a private visit from the clergyman;

(g) Allow the patient to leave the facility to visit, shop, attend church, or other social activities provided this does not endanger his health; and

(h) Be planned in group and individual projects and programs and available to all patients.

(4) An activities program is developed for each patient, incorporated in the overall patient's plan of care and reviewed and revised, if necessary, every four (4) months.

(5) The patient's participation in the activities program and significant changes in his response to activities are entered into his patient record.

(6) The activities director maintains a current list of patients on which precautions are noted regarding a patient's condition that might restrict or modify his participation in the program.

(7) The schedule and/or calendar for the activity program shall be current and shall be posted on a general patient area within the facility.

(8) The facility provides indoor and outdoor space, supplies, and equipment for the program.

Section 8. Social Services: The facility provides or arranges for social services as needed by the patient, designed to promote preservation of the patient's physical and mental health.

(1) A designated staff member suited by training or experience is responsible for arranging for social services and for the integration of social services with other elements of the plan of care.

(2) A plan for such care is recorded in the patient's record and is periodically evaluated in conjunction with the patient's total plan of care.

(3) Social services patient records shall be maintained as an integral part of the patient's case record.

Section 9. Pharmaceutical Services: Whether drugs are generally procured from community or institutional pharmacists or stocked by the facility, the facility shall have methods for its pharmaceutical services that are in accordance with accepted professional practices.

(1) Procedures for administration of pharmaceutical services: The facility shall provide appropriate methods and procedures for obtaining, dispensing, and administering of drugs and biologicals, developed with the advice of a staff pharmacist, a consultant pharmacist, or a pharmaceutical advisory committee which includes one (1) or more licensed pharmacists.

(a) If the facility has a pharmacy department, a licensed pharmacist shall be employed to administer the pharmacy department.

(b) If the facility does not have a pharmacy department, it shall have provision for promptly and conveniently obtaining prescribed drugs and biologicals from a licensed community or institutional pharmacy.

(c) An emergency medication kit approved by the facility's group of professional personnel shall be kept readily available.

(d) The facility shall have written policies covering pharmaceutical services which shall be developed with the advice of a group of professional personnel and which shall be reviewed at least annually. Pharmacy policies and procedures shall be developed with the advice of a committee of the professional staff of the facility.

(2) Conformance with physician's orders: All medications administered to patients shall be ordered in writing. Oral orders shall be given only to a licensed nurse or pharmacist, immediately reduced to writing, and signed. Medications not specifically limited as to time or number of doses, when ordered, shall be automatically stopped in accordance with written policy on stop orders. A nurse and the prescribing physician shall review, not necessarily at the same time, as a committee, the patient's medication profile at least every three (3) months. The patient's attending physician shall be notified of stop order policies and contacted promptly for renewal of such orders so that continuity of the patient's therapeutic regimen is not interrupted. Medications are released to patients on discharge or visits only after being labeled appropriately and on the written authorization of the physician.

(3) Administration of medications: All medications shall be administered by trained personnel. Each dose administered shall be recorded in the clinical record. If in case

of emergency, intravenous injections are necessary, they shall be administered by a licensed physician or a registered nurse.

(a) The nursing station shall have readily available items necessary for the proper administration of medication.

(b) Medications prescribed for one (1) patient shall not be administered to any other patient.

(c) Self-administration of medications by patients shall not be permitted except for drugs on special order of the patient's physician or in a pre-discharge program under the supervision of a licensed nurse or pharmacist. (The medication shall remain in the container provided by the pharmacist.)

(d) Medication errors and drug reactions shall be immediately reported to the patient's physician and pharmacist and an entry thereof made in the patient's clinical record as well as on an incident report.

(e) Up-to-date medication reference texts (P.D.R.) and other sources of information shall be provided, such as the American Hospital Formulary Service of the American Society of Hospital Pharmacists or other suitable references.

(4) Labeling and storing medications: Patient's medications shall be properly labeled and stored in a locked cabinet at the nurses' station.

(a) The label of each patient's individual medication container clearly indicates the patient's full name, physician's name, prescription number, name and strength of drug, date of issue, and expiration date of all time-dated drugs.

(b) Medication containers having soiled, damaged, incomplete, illegible, or makeshift labels shall be returned to the issuing pharmacist or pharmacy for relabeling or disposal. Containers having no labels shall be destroyed in accordance with state and federal laws.

(c) The medications of each patient shall be kept and stored in their originally received containers and transferring between containers shall be forbidden, except as noted in subsection (3)(c) of this section.

(d) Separately locked boxes, or drawers securely fastened down within the locked medicine cabinet shall be provided for storage of narcotics, barbiturates, amphetamines, and other dangerous drugs subject to the current Controlled Substance Act or subsequent amendments thereof.

(e) Cabinets shall be well lighted and of sufficient size to permit storage without crowding.

(f) Medications requiring refrigeration shall be kept in a separate locked box within a refrigerator at or near the nursing station.

(g) Medications for "external use only" shall be kept in a locked cabinet and separate from other medications.

(h) Medications no longer in use shall be disposed of or destroyed in accordance with federal and state laws and regulations.

(i) Medications having an expiration date shall be removed from usage and properly disposed of after such date.

(5) Controlled substances: The facility complies with all federal and state laws and regulations relating to the procurement, storage, dispensing, administration and disposal of controlled substances, those drugs subject to the federal and state Controlled Substance Acts, and other legend drugs. A controlled substances record shall be maintained which lists on separate sheets for each type and strength of controlled substances the following information: date, time administered, name of patient, dose, physician's name, signature of person administering dose and balance.

Section 10. Dental Services: The facility shall assist patients in obtaining dental services. Conditions necessitating dental services shall be noted and such dental procedures and services shall be recorded in the patient's record.

Section 11. Nursing Services: (1) Immediate supervision of the facility's health services on all days of each week is by a registered nurse or licensed practical nurse employed on the day shift.

(a) In the case of facilities where a licensed practical nurse serves as supervisor of health services, consultation is provided in the facility by a registered nurse, through formal contract, at regular intervals, but not less than four (4) hours weekly.

(b) The supervisor of health services shall have training and knowledge in restorative nursing.

(2) The responsibilities of the health services supervisor shall be in:

(a) Developing and/or maintaining nursing service objectives, standards of nursing practice, nursing procedure manuals, and written job description for each level of nursing personnel.

(b) Recommending to the administrator the number and levels of nursing personnel to be employed, participating in their recruitment and selection and recommending termination of employment when necessary.

(c) Assigning and supervising all levels of nursing care.

(d) Participating in planning and budgeting for nursing care.

(e) Participating with the interdisciplinary team in the development and implementation of patient care policies.

(f) Coordinating nursing services with other patient care services.

(g) Participating in the screening of prospective patients in terms of required nursing services and nursing competencies available.

(h) Assuring that a current nursing care plan is established for each patient and that his plan is reviewed and modified as necessary (but not less than quarterly). Plan shall indicate (long and short term goals), nursing care needed, how it is to be accomplished, and methods, approaches and modifications necessary to insure best results for the patient.

(i) Assuring that all medications are administered by licensed personnel (physician or nurse) or by other personnel who have completed a state-approved training program. There shall be trained personnel in the facility at all times for supervision. Intravenous medication shall be limited to emergency situations and shall be administered by physicians, or registered nurse. Each dose shall be promptly charted in the patient's medical record.

(j) Assuring that the registered nurse reviews, monthly, each patient's medications and notifies the physician when changes are appropriate of pertinent information; the registered nurse or consultant participates with the physician (not necessarily at the same time) in a review of medication orders at least quarterly.

(k) Assuring that acceptable in-service and/or continuing education for all nursing personnel shall be conducted at least quarterly or its equivalent. (Provided by in-service or continuing education.) Also assuring that an orientation program shall be written and implemented for all levels of nursing personnel.

(l) Assuring that minutes of all meetings and in-service educational programs are recorded and available to staff members involved in patient care.

(m) Assuring the accuracy and legibility of the nurse's notes which must contain but are not limited to the follow-

ing situations or circumstances: frequency of treatments rendered; response to treatments rendered; mode and frequency of p.r.n. medications administered; symptoms or condition necessitating administration of p.r.n. medication when indicated; reaction following p.r.n. medication when indicated; visits by the physician and phone calls to the physician; unusual conditions or symptoms as they occur; the recording of medically prescribed diets in the patient's clinical record; (The patient shall be observed at all meals and persistent failure to eat shall be noted.); and restorative nursing measures.

(n) Restorative measures shall be practiced on a twenty-four (24) hour, seven (7) day week basis in the care of patients. Those procedures requiring medical approval shall be ordered by the attending physician. Restorative measures shall include, but are not limited to the following procedures:

1. Positioning and turning: Nursing personnel shall encourage and/or assist patients in maintaining good body alignment while standing, sitting, or lying in bed.

2. Exercises: Nursing personnel shall assist patients in maintaining maximum joint range of motion and/or active range of motion.

3. Bowel and bladder training: Nursing personnel shall assist incontinent patients to gain bowel and bladder control.

4. Training in activities of daily living: Nursing personnel shall encourage and when necessary, teach patients to function at their maximum level in appropriate activities of daily living for as long as, and to the degree that, they are able.

5. Ambulation: Nursing personnel shall assist and encourage patients with daily ambulation unless otherwise ordered by the physician.

(3) Nursing services shall include but not be limited to:

(a) Assessment of nursing needs and, where appropriate, direct nursing intervention; by:

1. Proper administration of medications including oral, rectal, hypodermic, and intramuscular;

2. The proper carrying out of treatments such as: enemas, irrigations, catheterizations, applications of dressings or bandages, supervision of special diets, restorative measures and other treatments involving a like level of skill;

3. Objective observations of changes in a patient's condition, (including mental and emotional changes, as a means for analyzing and determining care required and/or the need for further medical evaluation and treatment);

4. Personal care and hygiene such as clean, neat, well-groomed hair; clean, trimmed fingernails and toenails; clean skin and freedom from offensive odors; clean mouth and teeth; and care of the lips to prevent dryness and cracking; and

5. Encouragement of patients to be dressed in their own clothing whenever possible (unless otherwise indicated by the physician, this should be street clothes and shoes).

(b) Implementing a regular program with special emphasis on the following to prevent decubiti:

1. A system to maintain cleanliness of the patient, his clothes and linens, shall be followed each time the bed or the clothing is soiled. Rubber, plastic, or other type of linen protectors (newspapers not acceptable) shall be properly cleaned and completely covered to prevent direct contact with the patient.

2. Special effort shall be made to assist the patient in being up and out of bed as much as his condition permits. The patient may be denied this assistance only upon the written order of his physician. If the patient cannot move

himself, he shall have his position changed as often as necessary but not less than every two (2) hours.

3. Treatment of decubitus in the facility will depend on the physician's judgment of the capability of the facility.

(c) Instruction and supervision of nursing staff in the following:

1. Basic skills required to meet the nursing needs of the patients;

2. Basic first aid practices to minimize injury from commonly encountered emergencies; and

3. Personnel should be knowledgeable of the proper use and location of emergency and life-supporting equipment.

(d) Participation on appropriate facility committees.

Section 12. Separability. If any clause, sentence, paragraph, section or part of these regulations shall be ad-

judged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof, directly involved in the controversy in which the judgment was rendered.

MASON C. RUDD, Chairman

ADOPTED: January 16, 1980

RECEIVED BY LRC: February 14, 1980 at 10:15 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Mason C. Rudd, Chairman, Kentucky Health Facilities and Health Services, Certificate of Need and Licensure Board, 275 East Main Street, Frankfort, Kentucky 40621.

Proposed Regulations

Kentucky Cancer Commission

110 KAR 1:010. Definitions.

RELATES TO: KRS 214.500, 214.510, 214.520, 214.530

PURSUANT TO: KRS 13.082, 214.520

NECESSITY AND FUNCTION: KRS 214.520 requires the Kentucky Cancer Commission to promulgate rules and regulations necessary to carry out the provisions of KRS 214.500 to 214.530 and to insure proper expenditure of funds appropriated. This regulation is necessary to define key terms used in the regulations which are not defined in KRS 214.500 to 214.530.

Section 1. The following words and phrases when used in these regulations have the following meanings unless clearly indicated otherwise in the context:

(1) "Applicant" means an organization, agency, or institution conducting cancer research, education, or management programs which has requested funds from the Kentucky Cancer Commission.

(2) "Commission" means the thirteen (13) member Kentucky Cancer Commission created by KRS 214.500 to 214.530.

(3) "Committee" means an advisory committee appointed by the commission pursuant to KRS 214.510.

(4) "Director" means the executive director of staff employed by the Kentucky Cancer Commission.

(5) "Grant" means funds which the commission has voted, by majority of quorum present, to give an entity in exchange for an action, which is solely intended to reduce the incidence, morbidity, and mortality rates for cancer in Kentucky.

(6) "Principal investigator" means a qualified individual to serve as project director whom the commission has approved to be accountable for the funded entity's use of granted funds.

(7) "Subcontract" means that funds are approved by the commission to be used by a grant recipient to provide

cancer-related services or activities not available from any non-profit organization, agency, or institution.

BOB W. BROWN, Chairman

ADOPTED: December 10, 1979

RECEIVED BY LRC: January 16, 1980 at 3:15 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Tom Graham, Executive Director, Kentucky Cancer Commission, 427 Versailles Road, Frankfort, Kentucky 40601.

Kentucky Cancer Commission

110 KAR 1:020. General provisions.

RELATES TO: KRS 214.500, 214.510, 214.520, 214.530

PURSUANT TO: KRS 13.082, 214.520

NECESSITY AND FUNCTION: KRS 214.520 requires the Kentucky Cancer Commission to promulgate rules and regulations to carry out the provisions of KRS 214.500 to 214.530 and to insure proper expenditure of funds appropriated under the Act. This regulation is to assure an avenue for public participation in rule development and amendment.

Section 1. Regulations. Any citizen who feels these regulations are working an unnecessary hardship on him may appear before the commission at any of its regular meetings and shall have the right to be heard upon the matter, provided that the request to be heard on such matter must be filed in writing with the director at least seven (7) days prior to the commission meeting.

Section 2. Amendments. Any citizen who feels these regulations can be improved by amendment may appear

before the commission at any of its regular meetings and shall have the right to be heard upon the matter, provided that the request to be heard on such matter must be filed in writing with the director at least seven (7) days prior to the commission meeting.

BOB W. BROWN, Chairman

ADOPTED: December 10, 1979

RECEIVED BY LRC: January 16, 1980 at 3:15 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Tom Graham, Executive Director, Kentucky Cancer Commission, 427 Versailles Road, Frankfort, Kentucky 40601

Kentucky Cancer Commission

110 KAR 1:030. Cancer commission procedures.

RELATES TO: KRS 214.510, 214.520

PURSUANT TO: KRS 13.082, 214.510, 214.520, 214.530

NECESSITY AND FUNCTION: KRS 214.510 establishes the Kentucky Cancer Commission and sets forth the procedures for operation of the commission. This regulation is to assure compliance with the statutes and to define specific methods of compliance.

Section 1. Regular Meetings. Regular meetings of the commission shall be held on the second Monday of each month. The chairman or the director may provide any change in the time, date, and place of any meeting when deemed necessary and give a minimum of twenty-four (24) hours notice in writing of the change to the commission members and the public.

Section 2. Chairman. At the regular meeting in July of each year, the commission shall elect by majority vote one (1) member to act as chairman for a term of one (1) year. If the office of chairman is vacated because of his death or resignation, or in any other manner, before the execution of his term as chairman, the commission shall elect his successor at the next meeting who shall serve for the unexpired term.

Section 3. Vice-Chairman and Secretary-Treasurer. At the regular meeting in July of each year, the commission shall elect by majority one (1) member to act as vice-chairman for a term of one (1) year and one (1) member to act as secretary-treasurer for a term of one (1) year. If either office is vacated because of death or resignation, or in any other manner, before the complete execution of the term of office, the commission shall at its next meeting, elect a successor from the remaining commission members to serve for the unexpired term. The offices of chairman, vice-chairman, and secretary-treasurer constitute the executive committee of the commission.

Section 4. Rules of Order. Meetings of the commission shall be conducted in accordance with Robert's Rules of Order.

Section 5. Minutes. The director shall attend all meetings of the commission and provide staff to record of-

ficial commission actions in the minutes. The time and place of each meeting of the commission, names of the commission members present, all official acts of the commission, the votes of each commission member except when the acts are unanimous, and when requested by a commission member's dissent with reasons for dissent, shall be recorded in the minutes. The director shall cause the minutes to be transcribed and presented for approval or amendment at the next regular meeting. The approved minutes shall be open to public inspection.

Section 6. Reports of Director. The director shall report to the commission:

- (1) Any new requests for funds to support cancer-related activities;
- (2) Staff progress in implementing official actions taken by the commission at its last meeting; and
- (3) Progress report summaries of each funded project.

BOB W. BROWN, Chairman

ADOPTED: December 10, 1979

RECEIVED BY LRC: January 16, 1980 at 3:15 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Tom Graham, Executive Director, Kentucky Cancer Commission, 427 Versailles Road, Frankfort, Kentucky 40601.

Kentucky Cancer Commission

110 KAR 1:040. Advisory committees.

RELATES TO: KRS 214.510, 214.520

PURSUANT TO: KRS 13.082, 214.510, 214.520

NECESSITY AND FUNCTION: KRS 214.510 permits the Cancer Commission to appoint such advisory committees as necessary to administer the provisions of KRS 214.500 to 214.530. This regulation is to set forth the manner in which such advisory committees are established.

Section 1. Advisory Committees. The chairman, with the approval of the commission, may appoint, charge, and fix the terms of advisory committees to the commission as are deemed necessary. Each advisory committee shall include at least one (1) commission member and shall meet as necessary to conduct commission related business. The executive committee shall serve as ex-officio members of all committees. Membership on an advisory committee may extend beyond membership term on the commission, so long as at least one (1) advisory committee member is a commission member.

BOB W. BROWN, Chairman

ADOPTED: December 10, 1979

RECEIVED BY LRC: January 16, 1980 at 3:15 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Tom Graham, Executive Director, Kentucky Cancer Commission, 427 Versailles Road, Frankfort, Kentucky 40601.

Kentucky Cancer Commission

110 KAR 1:050. Grant procedures.

RELATES TO: KRS 214.520, 214.530

PURSUANT TO: KRS 13.082, 214.520, 214.530

NECESSITY AND FUNCTION: KRS 214.520 requires the Cancer Commission to develop a coordinated statewide cancer program to reduce the incidence, morbidity, and mortality rates for cancer in the Commonwealth by making grants to nonprofit organizations, agencies, or institutions conducting cancer research, education and management programs, or by subcontracting a small percentage for such services by other organizations, agencies, or institutions conducting cancer research, education and management programs if such program or component cannot be performed by any nonprofit organization, agency or institution. This regulation is to assure an equitable and uniform procedure for grant applications for commission funds.

Section 1. Application Forms. The commission shall adopt grant application forms for use by any applicant seeking funds for cancer-related projects.

Section 2. Funding Availability. The commission shall develop and maintain a mailing list of nonprofit organizations, agencies, and institutions which conduct cancer research, education and management programs in Kentucky. At least annually, the director shall cause an announcement to be sent each such nonprofit entity announcing the availability of funds and advising of grant application procedures.

Section 3. Application Deadlines. The commission may adopt a reasonable calendar of dates to receive, evaluate, and act upon grant applications.

Section 4. Application Review. (1) Each grant application shall be reviewed by the director or his designee and the chairman shall be advised of his staff review. The grant application shall, when appropriate, be assigned to one (1) primary and two (2) secondary reviewers, none of which have a vested interest in this specific proposal, giving preference to qualified scientists and/or physicians who do not work in Kentucky and who are not affiliated with one (1) of the two (2) university medical centers. The application, with reviewer critiques, shall be referred to an advisory committee who shall evaluate the critiques of the reviewers and shall present the advisory committee's recommendation to the commission. The commission may:

- (a) Fund the grant application;
- (b) Disapprove the grant application for cause;
- (c) Return the grant application to the principal investigator for additional information; or
- (d) Defer action on the grant application.

(2) All grant application actions by the commission shall be final.

Section 5. Votes on Applications. No commission member shall vote on or participate in discussions with other commission members concerning any grant application made by an organization, agency, or institution which that member represents.

Section 6. Prioritization of Grants. The commission shall periodically conduct needs assessment analyses to

determine which cancer-related needs the commission can meet with available funds. The results of such analyses shall then be used as the basis for prioritizing grants.

BOB W. BROWN, Chairman

ADOPTED: December 10, 1979

RECEIVED BY LRC: January 16, 1980 at 3:15 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Tom Graham, Executive Director, Kentucky Cancer Commission, 427 Versailles Road, Frankfort, Kentucky 40601.

DEPARTMENT OF FINANCE Division of Occupations and Professions Board of Examiners of Social Work

201 KAR 23:100. Hearing procedures.

RELATES TO: KRS Chapter 335

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: KRS 335.070 authorizes the State Board of Examiners of Social Work to conduct hearings on charges calling for the denial, revocation or suspension of a license and to adopt rules for the conduct of such hearings.

Section 1. The board will hold a formal hearing whenever: (1) Any person refused licensure by the board shall so request; or

(2) Any licensee is alleged to have committed any act which constitutes a violation of any applicable statute or regulation and there appear to be reasonable grounds to believe that such a violation has, in fact, occurred.

Section 2. Hearings to determine matters of licensure shall be conducted in the following manner: (1) When the board denies licensure or relicensure to any applicant, the board shall inform the applicant of the reason(s) for the actions and of the applicant's right to appeal the decision in a formal hearing before the board. After thirty (30) days from the date of such notification, if no response is received from the applicant, the disapproval shall become final and the matter deemed closed. An explanation of this time limit shall be included in the notification of disapproval.

(2) When an applicant informs the board that he desires to pursue such an appeal, he shall be informed by certified mail of the following:

- (a) The time, date and place of hearing.
- (b) His right to representation by counsel.
- (c) His right to present witnesses and evidence in his behalf and to cross-examine any witnesses who may appear against him.

(d) A concise statement of the nature of the hearing and the issues to be discussed by the board.

(3) The hearing shall not be scheduled sooner than thirty (30) days later than the date of such notice.

(4) The hearing shall be governed by this regulation and by the rules of evidence for civil proceedings in the Commonwealth of Kentucky unless the presiding officer determines that a relaxation or modification of those rules is advisable and proper. All testimony shall be sworn.

(5) The subject matter of the hearings shall be limited to the statement of reasons for non-licensure contained in the

original notification thereof. If it appears that additional subject matter should be considered, the presiding officer shall order an adjournment for an appropriate period to permit preparation by counsel in regard to the new matters unless said adjournment is waived by the applicant.

(6) The hearing need not be adversary in nature unless the board shall have previously determined such structure to be appropriate and necessary. If such determination is made, the board shall appoint some qualified person to present the case against the applicant before the board. Absent special circumstances necessitating an adversary hearing, the proceedings shall be conducted in as informal a manner as is consistent with a proper resolution of the matter before the board. During the proceedings, members of the board and/or counsel shall be free to question any witness or other party. A verbatim record of the proceedings shall be made by stenographic or mechanical means and preserved for a reasonable period of the time and at least sixty (60) days from the date of the board's final order.

(7) Requests for continuances and adjournments shall be dealt with in a manner which the presiding officer shall deem fair and proper.

(8) After hearing all the evidence, the board shall make findings of fact and conclusions of law as appropriate and shall inform the applicant of its decision as soon as reasonably practicable. The decision of the board shall be by majority of the members voting.

Section 3. Hearings to determine matters of misconduct shall be conducted in the following manner: (1) Any person may bring to the board's attention a complaint or report of a violation by a licensee of an applicable statute or regulation. A criminal conviction for the same charge shall not bar proceedings under this regulation, nor shall an acquittal on such criminal charges prevent action by the board. The board shall, as soon as reasonably possible, determine whether, based on the evidence then available to it, there are reasonable grounds to believe that such a violation has occurred.

(2) If the board shall determine that reasonable grounds exist to believe that a serious violation has occurred, the board shall issue a citation to the licensee. The citation shall include a statement of the charge against the licensee and the alleged facts underlying that charge. It shall further include notice of the time, date and place of the hearing and of the licensee's right to representation by counsel, to examine and cross-examine witnesses and to produce evidence in his behalf. Such citation shall be sent by certified mail no later than thirty (30) calendar days before the date of such hearing.

(3) If the board shall determine from the evidence then available to it that the violation or misconduct alleged is of a non-serious nature, it may, at its discretion, resolve the matter by sending to the licensee a letter of admonishment in lieu of formal action. If the board so elects, it shall include in the letter of admonishment the underlying facts upon which the letter is based and shall inform the licensee of his right to a formal hearing to refute that information. If the licensee elects to pursue such hearing, the procedure in subsection (2) shall apply as if the violation had been deemed serious in nature. A letter of admonishment shall have no further effect and shall not be evidence of adjudication of misconduct.

(4) The hearing shall be adversary in nature and the charges and evidence against the licensee shall be presented by an attorney representing the board.

(5) The hearing shall be governed by the rules of evidence for civil proceedings in the Commonwealth of Kentucky and this regulation. Said rules of evidence may be modified or relaxed when, in the judgment of the presiding officer, such modification shall best serve the ends of justice.

(6) The subject matter of the hearing shall be strictly limited to those charges set forth in the citation. If it appears that additional subject matter should be considered, the presiding officer shall order an adjournment for an appropriate period to provide notice of said matters to be communicated to the licensee and to allow reasonable time to prepare for the defense of said charges, unless said adjournment and notice are waived by the licensee.

(7) A verbatim record of the proceedings shall be made by stenographic or mechanical means and preserved for a reasonable period of time thereafter and not less than sixty (60) days from the date of the board's final order.

(8) At the conclusion of the hearing, the board will make findings of fact and conclusions of law and issue a judgment and final order. The results of the hearing shall be communicated to the licensee by certified mail as soon as is reasonably practicable. The decision of the board shall be by majority of the members voting.

(9) If the board has determined by a preponderance of the evidence that a violation has occurred, it may invoke one of the following penalties:

(a) Revocation of the license; or

(b) Suspension of the license for not more than three (3) years; or

(c) Issuance of a letter of reprimand.

(10) If the board shall suspend the license, all or any portion of the period of suspension may be probated and the board may attach any reasonable conditions to such probation as it shall deem appropriate.

WILLIAM T. BURKETT, ACSW, Chairman

ADOPTED: December 12, 1979

RECEIVED BY LRC: January 30, 1980 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Director, Division of Occupations and Professions,
P. O. Box 456, Frankfort, Kentucky 40602.

**DEPARTMENT FOR NATURAL RESOURCES
AND ENVIRONMENTAL PROTECTION**

**Bureau of Environmental Protection
Division of Hazardous Material and Waste Management**

401 KAR 2:050. Hazardous waste definitions.

RELATES TO: KRS 224.890

PURSUANT TO: KRS 13.082, 224.017, 224.890

NECESSITY AND FUNCTION: KRS 224.017 and 224.890 require the Department for Natural Resources and Environmental Protection to adopt rules and regulations for the management for hazardous wastes. This regulation defines essential terms used in connection with the hazardous waste regulations.

Section 1. Definitions. Unless otherwise specifically defined in KRS Chapter 224 or otherwise clearly indicated

by their context, terms in KRS Chapter 224 and in the hazardous waste regulations shall have the meanings given in this regulation.

(1) "Active fault" means a land area which, according to the weight of geological evidence, has a reasonable probability of being affected by movement along a fault to the extent that a hazardous waste facility would be damaged and thereby pose a threat to human health and the environment.

(2) "Active portion" means any area of a facility where treatment, storage, recycling or disposal operations are being conducted. It includes the treated area of a landfarm and the active face of a landfill. Covered, closed, or inactive portions of landfills, building roofs, and roads are excluded unless designated as "active portions" by the secretary.

(3) "Aquifer" means any formation of soil, sand, gravel, limestone, sandstone, or other material, or any fracture, crevice, or void in any formation from which underground water is or may be obtained in useable quantities.

(4) "Attenuation" means any decrease in the maximum concentration or total quantity of an applied chemical or biological constituent in a fixed time or distance traveled resulting from a physical, chemical, and/or biological reaction or transformation occurring in the zone of aeration or zone of saturation.

(5) "Cell" means a portion of a landfill which is isolated, usually by means of an approved barrier.

(6) "Container" means any portable enclosure in which a material can be stored, handled, transported, or disposed.

(7) "Contamination" means the degradation of naturally occurring water, air, or soil quality either directly or indirectly as a result of human activities.

(8) "Discharge" means the release of any solid or hazardous waste or any constituent thereof into the environment.

(9) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment, be emitted into the air or be discharged into any water, including groundwaters.

(10) "Erosion" means the detachment and movement of soil or rock fragments by water, wind, ice, or gravity.

(11) "Existing" means any hazardous waste site or facility that was in being or under construction on October 17, 1979.

(12) "Final closure of a hazardous waste facility" means the procedures which must be followed by a facility owner/operator when it is determined that the facility will no longer accept hazardous waste for treatment, recycling, storage, or disposal on the entire facility.

(13) "Final cover" means cover material, soil or other suitable material, that is applied upon closure of a hazardous waste landfill and is permanently exposed to the natural elements.

(14) "Flash point" means the lowest temperature at which evaporation of a substance produces sufficient vapor to form an ignitable mixture with air, near the surface of the liquid. Ignitable mixture denotes a mixture that, when ignited, is capable of the propagation of flame away from the source of ignition. Propagation of flames means the spread of the flame from layer to layer independent of the source of ignition.

(15) "Food chain crops" means a forage or feed grain used to feed animals which are raised for human consumption,

used to produce products for human consumption, or also food or tobacco crops for human consumption.

(16) "Generator" means any person, federal agency, or state agency whose act or process produces or accumulates any extremely hazardous waste, any radioactive waste not exempt from these regulations, or hazardous wastes in excess of 1.3 tons annually but does not include retail establishments.

(17) "Generation of hazardous waste" means the act or process by which any person or state or federal agency produces hazardous waste, including hazardous residue from recycling and treatment activities.

(18) "Groundwater" means water which is in the zone of perennial saturation. It is differentiated from water held in the soil, from water in downward motion under the force of gravity in the perennially unsaturated zone, and from water held in chemical or electrostatic bondage. It is synonymous with the term "phreatic water."

(19) "Groundwater table" means the upper boundary of the saturated zone in which the hydrostatic pressure of the groundwater is equal to the atmospheric pressure.

(20) "Hazardous waste" means any waste substance or combination of waste substances in any form which, because of its quantity, concentration, or physical, chemical, or biological characteristics, may create a threat to public health or the environment. A hazardous waste includes any substance which is toxic, ignitable, corrosive, radioactive, an irritant, a strong sensitizer, or which generates pressure through decomposition, heat or other means.

(a) "Extremely hazardous waste" means any hazardous waste or mixture of hazardous wastes that contains any organic substance which has a calculated human LD₅₀ of less than 50 mg/kg, at a concentration in mg/L greater than or equal to 0.35 times its LD₅₀ expressed in units of mg/kg. For purposes of this definition, metallic salts of organic acids containing three (3) or fewer carbon atoms are considered not to be organic substances.

(b) "Moderately hazardous waste" means any hazardous waste or mixture of hazardous wastes that contains any organic substance which has a calculated human LD₅₀ equal to 50 mg/kg but less than 425 mg/kg. For purposes of this definition, metallic salts of organic acids containing three (3) or fewer carbon atoms are considered not to be organic substances.

(c) "Toxic waste" means a hazardous waste which causes adverse effects at a recognized extract concentration level.

(d) "Ignitable waste" means a waste which has any of the following properties:

1. Any liquid waste which has a flash point of less than 140 degrees Fahrenheit.

2. Any waste, excluding liquid waste in subparagraph 1 above and contained gas, that under conditions incident to its management is liable to cause fires through friction, absorption of moisture, spontaneous chemical changes, or retained heat from manufacturing or processing or to create a hazard during its management when ignited;

3. Any ignitable waste compressed gas;

4. Any waste which is a strong oxidizer.

(e) "Corrosive waste" means a waste which is an aqueous solution having a non-buffered pH less than or equal to three (3) or greater than or equal to twelve (12) or a corrosion rate greater than 0.250 inch per year of steel (SAE 1020) at a test temperature of 130 degrees Fahrenheit.

(f) "Radioactive waste" means any waste that exhibits radioactivity above specified levels in 902 KAR 100:080 or

902 KAR 100:085 and is not subject to the Federal Atomic Energy Act of 1954.

(g) "Incompatible waste" means a waste, including non-ignitable waste compressed gases, unsuitable for commingling with another waste or material, where the commingling might result in uncontrolled:

1. Extreme heat or pressure generation;
2. Fire;
3. Explosion or violent reaction;
4. Formation of substances which are shock-sensitive, friction-sensitive, or otherwise have the potential for reacting violently;
5. Formation or generation of toxic dusts, mists, fumes, gases, or other chemicals in such a manner that the likelihood of contamination of groundwater or escape of the substances into the environment is increased; or
6. Formation of any other hazardous waste as defined in this regulation.

(h) "Reactive hazardous waste" means a waste which, of itself, is:

1. Normally unstable and readily undergoes violent chemical change but does not detonate;
2. Capable of detonation or reaction but requires a strong initiating source or which must be heated under confinement before initiation, or which reacts explosively with air, water, or soil; or
3. Readily capable of detonation, explosive decomposition, or reaction at normal temperatures and pressures.

(21) "Hazardous waste district" means a hazardous waste management area identified by the department.

(22) "Hazardous Waste Guidelines" means the departmental publication, filed herein by reference, available from the Division of Hazardous Material and Waste Management, detailing facility criteria and procedures, financial requirements, testing procedures and specific lists of hazardous wastes and waste sources, extracted from the U.S. Environmental Protection Agency's proposed "Hazardous Waste Guidelines and Regulations," published in the Federal Register, December 18, 1978 (40 CFR 250).

(23) "Hazardous waste regulations" means those regulations relating to and pursuant to KRS 224.890.

(24) "Hazardous waste site or facility" means any place at which hazardous waste is treated, stored, recycled, and/or disposed of by landfilling, incineration, or any other approved method.

(a) "Disposal facility" means any facility which disposes of hazardous waste by landfilling in a manner approved by the department.

(b) "On site" means on the same or geographically continuous property where hazardous waste generation, treatment, storage, recycling, or disposal occurs. Two (2) or more pieces of property which are divided only by a public or private right-of-way and which are otherwise geographically contiguous are considered a single site.

(c) "Off-site" means that the site at which receiving, treatment, storage, recycling, and/or disposal takes place, is separated from another site where generation, shipment, treatment, storage, recycling, and/or disposal takes place by more than the width of a public or private right-of-way.

(d) "Storage facility" means any hazardous waste facility which stores hazardous wastes. A generator who stores his own hazardous wastes in an approved manner for less than ninety (90) days for subsequent transport off-site is not operating or maintaining a storage facility.

(e) "Treatment facility" means any facility which treats hazardous wastes, except one employing only treatment processes other than ponds and lagoons which are con-

nected to a manufacturing process by a pipe or other fixed and enclosed means, except as may be determined by the department not to be a treatment facility.

(f) "Recycling facility" means a facility where hazardous waste is recycled.

(g) "Landfill" means an excavated or engineered area where hazardous waste is deposited and covered according to a plan approved by the department.

(h) "Long-lived hazardous waste disposal site" means any place at which hazardous waste is disposed of by landfilling or burial in such a manner or utilizing such techniques that such wastes so disposed may, in the technical judgment of the department, still constitute an acute threat to public health or the environment should such wastes be exposed to the environment at some time after the close of any period of post-closure care and monitoring funded by the persons or state or federal agency who owned or operated the site during its period of active use.

(25) "Hazardous waste facility personnel" means those agents of the owner/operator who are responsible for performing and/or overseeing operations at a hazardous waste treatment, storage, recycling or disposal facility and whose acts or failures to act may result in a threat to human health or the environment.

(26) "Hazardous waste permit" means the written document issued by the department to the permittee pursuant to KRS 224.890 and the regulations promulgated thereto, for the act of generation, treatment, storage, recycling, or disposal of hazardous wastes. The permit may be for any of the above acts, and may have conditions attached.

(27) "Incineration" means an engineered process using equipment approved by the department that uses controlled flame combustion or other methods to thermally degrade hazardous waste. Incineration is a method of treatment of hazardous waste.

(28) "Landfarming" means application of hazardous waste onto land and incorporation into the surface soil for the purpose of attenuation. Synonyms include land application, land cultivation, land irrigation, land spreading, soil farming, and soil incorporation.

(29) "Leachate" means the liquid that has percolated through or drained from hazardous waste or other man-made materials and contains soluble, partially soluble, or miscible components, removed from such waste.

(30) "Liner" means a layer of natural or man-made material placed beneath or over a surface impoundment or landfill which serves to restrict the movement of the wastes from within the surface impoundment or the landfill into the soil, rock or water outside of the surface impoundment or landfill.

(31) "Manifest" means the principal document used in a management control system to trace the movement of hazardous wastes from generation to final disposal.

(32) "Monitoring" means the acts of systematically inspecting and collecting data on operational parameters or on the quality of the air, soil, groundwater, or surface water.

(33) "Monitoring well" means a well used to obtain water samples for water quality and quantity analysis and groundwater levels.

(34) "New" means any hazardous waste site or facility that commenced construction after October 17, 1979.

(35) "One-hundred year flood" means a flood that has a one (1) percent or one (1) in 100 chance of recurring in any year, or a flood of a magnitude equalled or exceeded once in 100 years on the average over a significantly long period.

(36) "Open burning" means the combustion of any material without:

- (a) Control of combustion air to maintain adequate temperature for efficient combustion;
- (b) Containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; and
- (c) Emission of the combustion products through a stack or vent adequate for both visual monitoring and point-source sampling.
- (37) "Owner/operator of a hazardous waste facility" means the owner of an on-site or off-site hazardous waste treatment, storage, recycling or disposal facility, as well as any person with whom rests ultimate decision-making authority over the facility.
- (38) "Operational plan" means the approved plan of operations filed with the department which describes the method of operation that the permittee will use in the generation, treatment, storage, recycling, and/or disposal of hazardous wastes.
- (39) "Permit by rule" means that certain classes of sites or facilities are presumed to hold a permit so long as the operations of such sites or facilities do not present a threat of imminent hazard to public health or substantial environmental impact.
- (40) "Permittee" means any person holding a valid permit issued by the department to generate, treat, store, recycle, and/or dispose of hazardous waste.
- (41) "Partial closure of a hazardous waste facility" means the measures which must be taken at a facility when it is determined that the facility will no longer accept hazardous waste for treatment, recycling, storage or disposal on one (1) portion of the site.
- (42) "Post closure care" means the manner in which a facility must be maintained when it no longer accepts hazardous waste for treatment, storage, or disposal.
- (43) "Representative sample" means any sample of waste or groundwater which is equivalent to the total waste or groundwater in composition, and physical, biological, and chemical properties at an accepted level of confidence.
- (44) "Run-off" means that portion of precipitation that flows overland before entering a defined stream channel.
- (45) "Saturated zone (zone of saturation)" means that part of the earth's crust containing groundwater in which all voids, large and small, are filled.
- (46) "Special wastes" means those wastes of high volume and low hazard which commonly include, but are not necessarily limited to, mining wastes, sludge from pollution control equipment, water treatment facilities, and sewage treatment facilities, cement kiln dust, gas and oil drilling muds, and oil production brines.
- (47) "Spill" means any accidental discharge into the environment of any substance which meets the definition of hazardous waste.
- (48) "Storage of hazardous waste" means the containment of hazardous waste either on a temporary basis or for a period of years in such a manner as not to constitute disposal of such hazardous waste.
- (49) "Storage tank" means any non-portable enclosure used for containing hazardous waste.
- (50) "Surface impoundment" means a pit, pond, lagoon, concrete basin or other basin such as open mixing tanks, clarifiers, and settling tanks.
- (51) "Transport vehicle" means a motor vehicle, rail freight car, air freight carrier, freight container, cargo tank, portable tank, vessel, pipeline or any other mechanism used for the transportation of hazardous waste.
- (52) "Transporter" means a person who moves or causes to be moved by any means any hazardous waste

regardless of any change of ownership or dominion over any such waste.

(53) "Unsaturated zone (zone of aeration)" means that region of the soil or rock between the land surface and the nearest saturated zone in which the interstices are occupied partially by air.

(54) "Vapor recovery system" means that equipment, device, or apparatus capable of collecting vapors and gases discharged from a storage tank, and a vapor processing system capable of affecting such vapors and gases so as to prevent their emission into the atmosphere.

(55) "Wetlands" means those areas that are inundated by surface or groundwater with a frequency and duration sufficient to support a prevalence of vegetation or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands include swamps, marshes, bogs, and similar areas, such as sloughs, potholes, wet meadows, river overflows, mud flats, and natural ponds.

(56) "Zone of incorporation" means the depth to which the soil on a landfarm is plowed, tilled, or otherwise designed to receive waste.

JACKIE SWIGART, Secretary

ADOPTED: February 14, 1980

RECEIVED BY LRC: February 15, 1980 at 11:30 a.m.

PUBLIC HEARING: A public hearing on this regulation is scheduled for Monday, April 7, 1980, at 10 a.m., EST, in the Auditorium of the Capital Plaza Tower, Frankfort, Kentucky. For additional information or submission of comments, please contact Roger Blair, Director, Division of Hazardous Material and Waste Management, Pine Hill Plaza, Frankfort, Kentucky 40601.

**DEPARTMENT FOR NATURAL RESOURCES
AND ENVIRONMENTAL PROTECTION**

**Bureau of Environmental Protection
Division of Hazardous Material and Waste Management**

401 KAR 2:055. Provisions, generally.

RELATES TO: KRS 224.037, 224.890

PURSUANT TO: KRS 13.082, 224.017, 224.890

NECESSITY AND FUNCTION: KRS 224.017 and 224.890 require the Department for Natural Resources and Environmental Protection to adopt rules and regulations for the generation, treatment, storage, recycling and disposal of hazardous wastes. This regulation sets forth general provisions which apply to the hazardous waste regulations with regard to applicability, scope, exceptions, variances, general prohibitions, compatibility, conflicting provisions, and severability.

Section 1. Applicability. The hazardous waste regulations shall apply to the management of all liquid, semisolid, solid, or gaseous waste defined or identified as hazardous in KRS Chapter 224 or the appropriate regulations (401 KAR 2:050, 401 KAR 2:075) by all persons and state and federal agencies who engage in the generation, treatment, storage, recycling, or disposal of such wastes, including substances spilled into the environment, thereby meeting the criteria of hazardous waste.

Section 2. Variance. (1) The department may grant a temporary variance from the requirements of the hazar-

dous waste regulations if a hazardous waste is determined by the department to be either:

(a) Insignificant as a potential hazard to public health or the environment because of its small quantity, low concentration, or physical, biological, or chemical characteristics; or

(b) Handled, processed, or disposed of pursuant to regulations of another governmental agency, providing the regulations of other agencies meet the requirements of the hazardous waste regulations.

(2) A request for temporary variance from a requirement of the hazardous waste regulations shall be submitted to the department in a detailed report clearly setting forth the analyses, procedures, controls, and other pertinent data necessary to support the request. The granting of such a request by the department shall be in writing and shall specify appropriate conditions such as duration, limitations, and review procedures.

Section 3. Compatibility with Public Law 94-580. The regulations promulgated pursuant to KRS 224.890 are intended to be compatible with federal regulations adopted pursuant to Public Law 94-580, the "Resource Conservation and Recovery Act of 1976."

Section 4. Conflicting Provisions. The provisions of the hazardous waste regulations are to be construed as being compatible with and complimentary to each other. In the event that any of these regulations are found to be contradictory, the more stringent provisions shall apply.

Section 5. Severability. In the event that any provision of KRS Chapter 224 or any regulation promulgated pursuant thereto is found to be invalid, the remaining hazardous waste regulations shall not be affected or diminished thereby.

JACKIE SWIGART, Secretary

ADOPTED: February 14, 1980

RECEIVED BY LRC: February 15, 1980 at 11:30 a.m.

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**DEPARTMENT FOR NATURAL RESOURCES
AND ENVIRONMENTAL PROTECTION**
Bureau of Environmental Protection

Division of Hazardous Material and Waste Management

401 KAR 2:060. Hazardous waste permits.

RELATES TO: KRS 224.033, 224.255, 224.855, 224.860, 224.880, 224.890

PURSUANT TO: KRS 13.082, 224.017, 224.890

NECESSITY AND FUNCTION: KRS 224.880 and 224.890 require any person who generates, treats, stores, recycles or disposes of hazardous waste to first obtain a hazardous waste permit from the Department for Natural Resources and Environmental Protection.

Section 1. Generators' Determination and Registration of Hazard.

(1) No person or state or federal agency shall engage in the generation of waste without having made a determination, based upon examination of the definitions, characteristics, and determination guidelines, that the waste is hazardous or non-hazardous; and

(2) If the waste appears to be hazardous, the generator shall register his intent to apply for a hazardous waste permit with the department. Such registration shall be filed within ninety (90) days after the effective date of these regulations and shall include:

(a) Known or anticipated types, potential sources, general characteristics, and weights or volumes of hazardous wastes generated annually; and

(b) The place of generation and the name and address of a contact agent.

(3) If the waste is a special waste, generators shall, either individually or collectively as a categorical group, within ninety (90) days after the effective date of these regulations file a report, according to procedures previously approved by the department, which details, by geographic area, the known or anticipated types, potential sources, general characteristics, and weights or volumes of special wastes generated annually.

Section 2. Permit Required. (1) No person or state or federal agency shall engage in the generation, treatment, storage, recycling, or disposal of hazardous waste without having first obtained a permit or a temporary variance from the department or, in the case of generators, having registered with the department.

(2) A permit shall authorize the permittee to engage in the generation, treatment, storage, recycling or disposal of hazardous waste in a manner prescribed by the department for a period of one (1) year from the date of issuance.

(3) All existing authorizations or letters of permission to dispose of hazardous waste issued by the department shall become null and void ninety (90) days after the effective date of the hazardous waste regulations.

(4) Generators, not registered with the department, and existing hazardous waste sites or facilities shall apply for a hazardous waste permit or a temporary variance within six (6) months after the effective date of these regulations.

(5) No new hazardous waste site or facility shall commence construction or operation without having first obtained a permit.

(6) Special waste sites or facilities are hereby granted a permit by rule. However, if the operation of a site or facility would cause a threat of imminent hazard to public health or substantial environmental impact, the site or facility may be required to fully comply with the requirements of Section 3.

(7) The permit shall confer upon the owner/operator a qualified right to generate, treat, store, recycle, or dispose of hazardous waste, but shall not relieve the owner/operator of responsibility to comply with all applicable federal, state, and local laws and regulations.

Section 3. Application for a Hazardous Waste Permit. A person or state or federal agency desiring a hazardous waste permit shall submit to the department:

(1) A complete application on a form provided by the department.

(2) An operational plan addressing:

(a) Known or anticipated types, potential sources, general characteristics and weights or volumes of hazardous wastes generated, received or handled annually.

(b) The designated capacity and expected life of equipment to be used and/or site to be used by the permittee.

(c) A list of operating equipment which the facility will utilize to comply with these regulations.

(d) A general description of the operational procedures to be conducted including procedures that will ensure compliance with KRS Chapter 224, and that will protect public health and the environment.

(e) A general description of procedures for shipping, receiving and identifying hazardous wastes; for deployment of qualified personnel; and for supervision of handling and disposing of hazardous waste.

(f) A description of procedures planned for final or partial closure of any hazardous waste disposal site.

(g) Closure and post-closure monitoring and maintenance cost estimates.

(h) A description of security measures to keep unauthorized persons from entering the site and to prevent unpermitted use.

(3) A contingency plan addressing:

(a) Actions that will be taken in the event of fire, explosion, accidental discharge, or other accident;

(b) The equipment and manpower available to correct effects of an accident or accidental discharge; and

(c) Emergency procedures for evacuating employees and notifying agencies responsible for providing services during emergencies.

(4) Physical information on the proposed site or facility consisting of, but not limited to:

(a) A map drawn to an appropriate scale showing the following:

1. Existing topographical contours of the property;

2. Proposed final elevations of any completed disposal site;

3. Legal boundaries for which clear title or lease is held by the person desiring the permit;

4. Locations of permanent access and permanent internal roads;

5. Location and type of fencing;

6. Locations of points of waste generation, loading facilities, unloading facilities, storage facilities, equipment cleaning areas and disposal areas;

7. Locations and descriptions of environmental monitoring stations;

8. Locations of structures, equipment or facilities for control of surface or subsurface drainage, leachate or landfill gases; and

9. Locations of power lines, pipelines, and easements through the hazardous waste site or facility.

(b) A geological report of the site including but not limited to:

1. A description of all soils at the site in detail identifying the suitability for the proposed use;

2. A description of the surface and subsurface geology of the site, including an assessment of such geological hazards as: seismic activity, subsidence, or stability; and

3. A description of the hydrologic characteristics of the site, including surface and ground water current use, potential use, and flow.

(c) All land uses and zoning contiguous with the location of hazardous waste generation and within one quarter (¼) mile of the perimeter of hazardous waste treatment, storage, recycling, or disposal facilities.

(5) A statement of zoning approval for the hazardous waste treatment, storage, recycling, or disposal facility signed by the appropriate authority.

(6) A verified affidavit from the publishing newspaper certifying the time, place, and content of the applicant's

advertisement in accordance with KRS 224.855, for a hazardous waste treatment, storage, recycling, or disposal facility.

(7) Proof of financial responsibility and plan for meeting any bonding requirements required by KRS 224.890 and by Section 4.

Section 4. Closing Trust Fund; Post-Closure Trust Fund; Financial Responsibility. Prior to issuance of a hazardous waste permit, the applicant shall establish a trust fund for the amount of the estimated closure cost; establish a trust fund for post-closure monitoring and maintenance which is to be built up over the life of the site or over twenty (20) years, whichever is shorter; and provide evidence to the department of the necessary financial responsibility for injuries to persons or property sustained as a result of an escape or release of hazardous waste.

(1) For each facility, before a permit can be issued, the applicant shall deposit into a closure trust fund as a condition of receiving a permit a cash deposit satisfactory to the department equal to the cost estimate for closure. An acceptable method for determination of this amount is found in the "Hazardous Waste Guidelines," financial requirements.

(2) For each facility, before a permit can be issued, the applicant shall establish a post-closure trust fund. The annual cost of post-closure monitoring and routine maintenance will be determined by the department based on cost estimates provided by the applicant and other sources. The annual post-closure monitoring and maintenance cost will be paid into the post-closure trust fund, at a rate determined in "Hazardous Waste Guidelines," financial requirements, or at some other rate satisfactory to the department which will ensure the availability of the necessary funds for monitoring and maintenance after the facility has closed.

(3) For each facility, before a permit shall be issued, the applicant must show evidence of financial responsibility, in an amount and for a time period specified by the department.

(4) In the case of generation permits, a bond shall be required in an amount specified by the department. The bond shall be sufficient to provide for the cleanup of spills of hazardous waste at the generating facility or during transport, based on the character, quantity, and routing of the waste. In a particular instance where the circumstances are such as to warrant an exception to this provision, the department may accept other evidence of financial responsibility for spill cleanup.

Section 5. Issuance of Hazardous Waste Permit. (1) After receiving a permit application, operational plan, contingency plan, site information, and proof of financial responsibility, the department shall determine whether this proposed facility is a long-lived hazardous waste disposal site, and if not, the department shall issue a hazardous waste permit, specify modifications that must be made as a prerequisite for issuance of a permit, or deny the permit. If the proposed facility is determined to be a long-lived hazardous waste disposal site, the requirements of KRS 224.855(5) and (6) must be met.

(2) The department may issue a hazardous waste permit upon finding that the person or state or federal agency desiring the permit has met all the requirements for application and has the ability to meet the operational requirements of the hazardous waste regulations. Past performance in related areas will be considered in the review and in the determination of any requirement for specializ-

ed permit conditions. An application for a permit may be denied or an active permit revoked for failure to comply with applicable state statutes or regulations, including but not limited to any failure to provide or maintain adequate financial responsibility.

(3) The department shall act on the permit application within ninety (90) days of receipt or shall, within that time period, inform the applicant of a projected schedule for review.

Section 6. Termination and Renewal of Hazardous Waste Permit. (1) A hazardous waste permit shall automatically terminate at the end of one (1) year. A shorter period may be specified.

(2) A hazardous waste permit may be renewed. Renewal requests shall be made to the division not less than ninety (90) days prior to the permit expiration date.

(3) The department, in issuing a renewal, shall consider:

(a) Whether all conditions of the expiring permit are being met;

(b) Whether any necessary modification of the original permit conditions is being met;

(c) New or updated information required by the department that is necessary for re-evaluating the permit's suitability for re-issuance; and

(d) All information considered in issuance of the original permit.

(4) Approval of any compliance schedule for meeting permit conditions or necessary changes in permit conditions does not constitute a waiver of the department's right to initiate enforcement action for a permittee's non-compliance with KRS Chapter 224 and the hazardous waste regulations.

Section 7. Conditions of Hazardous Waste Permit. (1) The owner/operator shall comply with the requirements of all applicable state laws and regulations as well as any special conditions imposed by the department.

(2) The department may issue a permit subject to special conditions which include but are not limited to:

(a) Types of hazardous wastes which may be accepted or disposed;

(b) Special operating conditions;

(c) Schedules of compliance for corrective actions;

(d) Procedures, conditions, and changes necessary to comply with the requirements of the hazardous waste regulations and of KRS Chapter 224; or

(e) The issuance of any other applicable departmental permits.

(3) The owner/operator shall handle a waste as a hazardous waste if the manifest indicates that the waste is hazardous.

Section 8. Display of Hazardous Waste Permit. The hazardous waste permit or notice of temporary variance shall be conspicuously displayed at the hazardous waste facility. In the case of generators, the permit or acknowledgement of registration in accordance with Section 1 shall be displayed at the generator's place of business.

Section 9. Prohibition of Use of Unpermitted Facility. Ninety (90) days after the effective date of the hazardous waste regulations, no person shall deliver hazardous waste to a facility for treatment, storage, recycling, or disposal unless the owner/operator has:

(1) Applied to the department for a hazardous waste permit for a facility in operation at the effective date of the hazardous waste regulations, or

(2) Been granted a hazardous waste permit by the department.

Section 10. Modification of Hazardous Waste Permit to Include New Conditions. The department may at any time modify a permit issued pursuant to these regulations to include new conditions required to comply with the requirements of the hazardous waste regulations, KRS Chapter 224, or any other applicable state statutes or regulations. The modification may include a time schedule for implementing the new conditions.

Section 11. Modification of Processing Methods or Proposed Closure by Owner/Operator. (1) The owner/operator shall notify the department in writing of any facility closing anticipated to last one (1) year or longer, or of any proposed significant change of processing, disposal, or method of operation from that described in the operation plan thirty (30) or more days before the proposed date of the closing or change.

(2) The owner/operator shall not proceed with the closing or change without written approval of the department.

(3) The department shall respond to the owner/operator within thirty (30) days of the receipt of the notice of proposed closing or change.

Section 12. Change of Owner/Operator. Hazardous waste permits are non-transferable absent written approval by the department. Any proposed new owner/operator may be required to submit an application as described in this regulation.

JACKIE SWIGART, Secretary

ADOPTED: February 14, 1980

RECEIVED BY LRC: February 15, 1980 at 11:30 a.m.

PUBLIC HEARING: A public hearing on this regulation is scheduled for Monday, April 7, 1980, at 10 a.m., EST, in the Auditorium of the Capital Plaza Tower, Frankfort, Kentucky. For additional information or submission of comments, please contact Roger Blair, Director, Division of Hazardous Material and Waste Management, Pine Hill Plaza, Frankfort, Kentucky 40601.

**DEPARTMENT FOR NATURAL RESOURCES
AND ENVIRONMENTAL PROTECTION**
Bureau of Environmental Protection
Division of Hazardous Material and Waste Management

401 KAR 2:065. Inspections, hearings and penalties.

RELATES TO: KRS 224.032, 224.033, 224.071, 224.081, 224.083, 224.890, 224.996

PURSUANT TO: KRS 13.082, 224.017, 224.890

NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to inspect any property or premises for the purpose of investigating either actual or suspected sources of pollution or contamination or for the purpose of ascertain-

ing compliance or noncompliance with KRS Chapter 224 or the regulations promulgated pursuant thereto. KRS 224.996 permits the Department for Natural Resources and Environmental Protection to assess civil and criminal penalties against any person who fails to perform any duties imposed by KRS Chapter 224, the regulations promulgated pursuant to KRS Chapter 224, or any determination or order of the department.

Section 1. Enforcement. The requirements of this regulation shall be enforced by the secretary or any duly authorized representative of the department.

Section 2. Inspections. (1) The secretary or any duly authorized representative of the department upon presentation of proper identification and authority may:

(a) Enter any premises permitted to generate hazardous waste or any permitted hazardous waste facility, inspect the premises, and gather evidence on existing conditions and procedures;

(b) Obtain from any permittee, or from any permitted premises, representative samples of waste;

(c) Conduct tests, analyses and evaluations to determine whether the requirements of the hazardous waste regulations and KRS Chapter 224 are being met;

(d) Obtain samples of any containers and photographs or facsimiles of container labels;

(e) Inspect and copy any pertinent records, reports, information or test results relating to the requirements of this regulation; and

(f) Enter and inspect any other premises in accordance with the requirements of KRS 224.033(10).

(2) A report listing any deficiencies found during the inspection shall be prepared by the inspector and shall be kept on file in the department. A copy of the report shall be provided to the owner/operator or his agent upon completion of the inspection.

Section 3. Deficiencies. (1) The department shall notify the owner/operator of any noncompliance with the requirements of these regulations, with guidelines adopted pursuant thereto, or with conditions of the permit.

(2) The owner/operator shall submit to the department a plan of correction to be implemented within a time acceptable to the department.

(3) If the owner/operator fails to accomplish an agreed upon step in the plan of correction within the time period specified, the secretary may take action to modify, suspend, discontinue, or revoke the owner/operator's permit(s).

Section 4. Modification, Suspension and Revocation of a Permit. The department may modify, suspend or revoke a permit issued pursuant to this regulation for: (1) Violation of any requirement of KRS Chapter 224 or the respective regulations promulgated pursuant thereto.

(2) Aiding, abetting or permitting the violation of any provisions of these regulations.

(3) Any action or omission associated with maintenance and operation of the facility that could create a threat to public health or the environment.

(4) Violations of a condition or a variance of the hazardous waste permit.

(5) Misrepresentation or omission of a significant fact by the operator either in the application for the permit or in information subsequently reported to the department.

(6) Failure to comply with an order issued by the department.

Section 5. Hearings. (1) Except for special hearings pursuant to KRS 224.071, any person or state or federal agency aggrieved by the actions of the department may by written notice request that a hearing be conducted by the department. The right to demand such a hearing shall be limited to a period of thirty (30) days after the applicant has had actual notice of the action, or could reasonably have had such notice. Unless the request is frivolous, the department shall schedule a hearing before the department not less than twenty-one (21) days after notice of demand for such a hearing, unless the person complained against waives in writing the twenty-one (21) day period. The notice of hearing shall include a statement of the time, place, and nature of the hearing; the legal authority for the hearing; reference to the statutes and regulations involved; and a short statement of the reason for the granting of the hearing.

(2) Prior to the formal hearing, and upon seven (7) days written notice to all parties, delivered personally or by certified mail with return receipt requested, the hearing officer may hold a pre-hearing conference to consider simplification of the issues, admissions of fact and documents which will avoid unnecessary proof, limitations of the number of witnesses and such other matters as will aid in the disposition of the matter. Disposition of the matter may be made at the pre-hearing conference by stipulation, agreed settlement, consent order, or default for non-appearance.

(3) Administrative hearing procedure:

(a) Any party to a hearing may be represented by counsel, may make oral or written argument, offer testimony, cross-examine witnesses, or take any combination of such actions. A hearing officer shall preside at the hearing in accordance with reasonable administrative practice.

(b) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. When necessary to ascertain facts not reasonably susceptible of proof under judicial rules of evidence, evidence not admissible thereunder may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. Hearing officers shall give effect to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form. Documentary evidence may be received in the form of copies or excerpts if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original. A party may conduct cross-examinations required for a full and true disclosure of the facts. Notice may be taken of generally recognized technical or scientific facts within the department's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data and they shall be afforded an opportunity to contest the material so noticed. The department's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.

(c) It will be within the hearing officer's discretion to require official transcripts or to set up other procedures of taking evidence, including but not limited to the use of mechanical recording devices for recording the testimony. The record of such hearing, consisting of all pleadings, motions, rulings, documentary and physical evidence

received or considered, a statement of matters officially noticed, questions and offers of proof, objections and rulings thereon, proposed findings and recommended order, and legal briefs, shall be open to public inspection and copies thereof shall be made available to any person upon completion of the hearing process upon payment of the actual cost of reproducing the original except as provided in KRS 224.035. The department may cause the mechanical recording of the testimony to be transcribed. When certified as a true and correct copy of the testimony by the hearing officer, the transcript shall constitute the official transcript of the evidence.

(d) The hearing officer shall within thirty (30) days of the closing of the hearing record, make a report and a recommended order to the secretary. The order shall contain the appropriate findings of fact and conclusions of law. If the secretary finds upon written request of the hearing officer that additional time is needed, then the secretary may grant a reasonable extension. The hearing officer shall serve a copy of his report and recommended order upon all parties. The parties may file within seven (7) days of service of the hearing officer's report and recommended order exceptions to the recommended order. The secretary shall consider the report and recommended order and exceptions. The secretary may remand to the hearing officer the matter for further deliberation, adopt the opinion of the hearing officer and the department or issue his own written order based on the report and recommended order.

(e) After completion of the hearing and filing of exceptions, the department shall notify the applicant in writing, certified mail with return receipt requested, of the final decision of the department. If any extension of time is granted by the secretary for a hearing officer to complete his report, the department shall notify all parties at the time of the granting of the extension.

(f) The secretary shall not grant extensions of time to the hearing officer for more than thirty (30) days for any one (1) extension, and no more than two (2) such extensions shall be granted.

(g) A final order of the department shall be based on substantial evidence appearing in the record as a whole and shall set forth the decision of the department and the facts and law upon which the decision is based.

(h) There shall be no ex-parte communications between a hearing officer and parties to the action.

(i) Any person aggrieved by a final order of the department may have recourse to the courts as set forth in KRS 224.085.

Section 6. Order for Discontinuance, Abatement, or Alleviation. The secretary may, when he finds after investigation that it would be prejudicial to the interests of the people of the state to delay action, issue an order for discontinuance, abatement, or alleviation of a condition or activity without prior hearing as provided in KRS 224.071.

Section 7. Discontinuance of a Permit. (1) The secretary may order the discontinuance of a permit prior to any hearing when he determines such action is necessary to protect public health and safety and the environment from imminent danger.

(2) The secretary, or his authorized designee, shall notify the owner/operator of the hazardous waste facility of the discontinuance and the effective date thereof and, at the same time, shall provide the owner/operator with an explanation of the basis of the discontinuance.

(3) The owner/operator shall take prompt action to correct the deficiencies cited by the department.

(4) The suspension shall remain in effect until the deficiencies are corrected to the satisfaction of the department or until the department makes a final determination based on the outcome of a hearing held in accordance with the requirements of KRS 224.071. The determination may result in termination of the order, suspension, or modification of the permit, or revocation of the permit.

Section 8. Petition for Reinstatement. An owner/operator whose permit has been suspended or revoked may petition the department for reinstatement after thirty (30) days or more have elapsed from the effective date of the suspension or revocation or from the date of the denial of a similar petition and after the conditions of Section 7(4) have been met.

Section 9. Penalties. Any person or state or federal agency who violates any of the applicable provisions of KRS 224.890 or who violates any determination, order, or regulation adopted pursuant thereto, shall be subject to civil penalties as set forth in KRS 224.996(5).

JACKIE SWIGART, Secretary

ADOPTED: February 14, 1980

RECEIVED BY LRC: February 15, 1980 at 11:30 a.m.

PUBLIC HEARING: A public hearing on this regulation is scheduled for Monday, April 7, 1980, at 10 a.m., EST, in the Auditorium of the Capital Plaza Tower, Frankfort, Kentucky. For additional information or submission of comments, please contact Roger Blair, Director, Division of Hazardous Material and Waste Management, Pine Hill Plaza, Frankfort, Kentucky 40601.

**DEPARTMENT FOR NATURAL RESOURCES
AND ENVIRONMENTAL PROTECTION**

**Bureau of Environmental Protection
Division of Hazardous Material and Waste Management**

401 KAR 2:070. Record keeping, operating standards and reporting procedures.

RELATES TO: KRS 224.071, 224.255, 224.890

PURSUANT TO: KRS 13.082, 224.017, 224.033, 224.890

NECESSITY AND FUNCTION: KRS 224.890 requires the Department for Natural Resources and Environmental Protection to promulgate regulations to establish reporting procedures, record keeping procedures and operating standards, for the generation, storage, treatment, recycling and disposal of hazardous wastes.

Section 1. Manifest. (1) A manifest in a format approved by the department shall be utilized for recording information on all liquid, solid, semi-solid or gaseous hazardous wastes transported to hazardous waste handling facilities, storage facilities, treatment facilities, recycling facilities, transfer stations or disposal sites. A manifest is not required for the transport of special waste.

(2) All applicable sections of each manifest shall be accurately, completely, and legibly filled out.

(3) The manifest shall be carried by any person who transports hazardous waste on a public road, railroad, water or by any other means.

(4) The use of the manifest shall be required upon notification by the department.

Section 2. Manifest and Other Procedures for Generators. (1) The generator of any hazardous waste to be disposed of off-site shall complete and sign the generator of waste section of the manifest, and label and placard each shipment.

(2) The generator shall describe the wastes accurately. This description shall include the type of waste, chemical composition, special handling instructions and any other information deemed necessary by the department.

(3) The generator shall indicate on the manifest whether the waste is hazardous or extremely hazardous as delineated in 401 KAR 2:075.

(4) Before any shipment of hazardous waste is transported on a public road, the generator shall write the proper shipping name on the manifest as required by the Kentucky Department of Transportation in 601 KAR 1:005.

(5) Before any shipment of extremely hazardous waste is transported on a public road, the generator, in addition to completing the manifest as required by this regulation, shall inform the department by a previously agreed upon procedure, such as outlined in "Hazardous Waste Guidelines," records and procedures.

(6) The generator shall have retained the waste generator's copy of the completed manifest prior to removal of the waste from the generator's facility.

(7) The generator shall provide that the manifest, with the generator and transporter sections completed, accompany hazardous waste during transport and be delivered to the hazardous waste site or facility with the waste.

(8) With the manifest sections properly completed, the generator shall submit to the hazardous waste transporter an original and copies of the manifest for shipment of hazardous waste.

(9) The generator of hazardous waste shall submit to the department each week, or on such other schedule as approved by the department, a summary or a legible copy of each manifest or both issued during the previous week or designated time period, including manifests for shipments to be delivered out of the state.

Section 3. Manifest Procedures for Owner/Operator of Treatment, Storage, Recycling, or Disposal Facility. (1) The owner/operator of an off-site hazardous waste facility shall ensure that hazardous waste delivered to the receiving facility has essentially the same general properties and quantities as identified by the generator on the manifest, except in the case of an on-site facility operated solely for and by a generator.

(2) The owner/operator of a hazardous waste facility shall require that the generator and transporter sections of the manifest be completed before the hazardous waste shall be accepted.

(3) The off-site hazardous waste facility owner/operator shall complete the applicable section of the manifest, retain a copy, and send the completed original to generator of the hazardous waste.

(4) The owner/operator shall send legible copies of all completed hazardous waste manifests or other reports to the department on a current weekly basis, or on such other

schedule as approved by the department, including manifests for shipments received from out of state.

Section 4. Personnel Requirements for Facility Operation. (1) The owner/operator of a hazardous waste facility shall maintain such personnel at the facility as are necessary to provide effective and timely action with regard to facility operations, maintenance, environmental controls, records, emergencies, and health or safety.

(2) The owner/operator shall provide at the facility at least one (1) qualified person who is capable of conducting field tests of wastes for, at a minimum, pH and flammability at the time hazardous waste is accepted.

(3) The owner/operator of a hazardous waste facility shall provide adequate supervision to ensure that the operation of the facility and other activities carried out on the premises are in compliance with all applicable laws, regulations, permit conditions and other requirements. The owner/operator shall keep the department, local fire officials, and State Fire Marshal currently advised of the names, addresses, and telephone numbers, including emergency telephone numbers, of the owner/operator, manager, and supervisor.

Section 5. Equipment Requirements for Owner/Operator. (1) Hazardous waste facilities shall be designed, equipped and operated to prevent discharge of hazardous wastes outside of areas designated in the operational plan, and to prevent hazards to public health and the environment.

(2) Equipment used to handle, treat, store or dispose of hazardous waste shall be designed to avoid an uncontrolled reaction, fire, explosion, or discharge of hazardous waste.

(3) If an on-site water supply is used for controlling dust and fires, cleaning equipment or other purposes, and does not meet all health standards for drinking water, all faucets or taps shall be clearly labeled: "Polluted—Not Safe For Human Use."

(4) If a public water supply is used at the facility, the service connection shall be protected from contamination as specified by the department in 401 KAR 6:015, pertaining to public water supply requirements.

(5) The owner/operator shall provide or otherwise require special equipment such as lifts, ramps, and lines to remove containerized hazardous waste from vehicles and containers, if necessary to prevent hazards to public health and the environment.

(6) Hazardous waste facilities shall not be open to public except by permission of the department. Access roads leading to areas where hazardous wastes are handled, treated, recycled, stored, or disposed shall be clearly marked with notices that are legible from a distance of at least twenty-five (25) feet, and warn of the presence of hazardous wastes. Signs or traffic controllers shall be strategically located to prevent the public from being exposed to hazardous wastes.

Section 6. General Operating Standards for Facilities. (1) The owner/operator of a hazardous waste facility shall operate the facility in accordance with the requirements of KRS Chapter 224, and the regulations promulgated pursuant thereto, the conditions of the hazardous waste facility permit issued by the department, and the operational plan filed with the department.

(2) Hazardous waste shall be handled, treated, recycled, stored, or disposed of only within the hazardous waste area designated in the operational plan filed with the department unless otherwise specified.

(3) The owner/operator shall ensure that methods used to handle, treat, store, recycle or dispose of hazardous waste at the hazardous waste facility are designed to avoid:

(a) Discharge of hazardous waste outside the designated hazardous waste area;

(b) Movement of hazardous waste to an area outside the hazardous waste area;

(c) Exposure or contamination of a person by hazardous waste; and

(d) Creating a hazard to public health or the environment.

(4) To prevent hazardous waste from being blown by wind, hazardous waste in the form of powder, dust, or a fine solid should be handled, treated, stored and disposed of in covered containers or, if the waste is not water reactive, shall be wetted sufficiently to eliminate airborne dispersal in conformance with other permit requirements.

(5) Hazardous wastes that are capable of releasing hazardous gases, mists or vapors in excess of existing air quality standards or where the emitted hazardous wastes could result in a hazard to public health or the environment shall not be deposited in open pits, ponds, lagoons, storage or disposal areas or containers.

(6) Containers holding hazardous wastes shall not be opened, handled, emptied or disposed of in a manner which may rupture the containers or cause them to leak, unless the precautions taken preclude fires, contamination of persons by hazardous waste, discharge of hazardous waste outside the hazardous waste area or movement of hazardous waste to an area outside the hazardous waste area.

(7) Unless decontaminated in a manner approved by the department, empty containers contaminated with hazardous materials shall be stored, handled, processed and disposed as hazardous wastes in compliance with hazardous waste regulations.

(8) The owner/operator of a hazardous waste facility shall expedite collection of hazardous waste that is accidentally discharged from designated storage, processing or disposal areas. The owner/operator shall also collect soil contaminated by such discharge. The owner/operator shall handle and dispose of such waste and soil as hazardous wastes in compliance with these regulations and the approved operational plan.

(9) The hazardous waste facility shall be operated in such a manner as to minimize the chance of fire and explosions and with adequate provisions for prompt fire control.

(10) The owner/operator shall make provisions to prevent personnel from wearing clothing that is contaminated with hazardous waste and provide adequate decontamination facilities.

(11) Equipment used at hazardous waste facilities, including but not limited to storage containers, processing equipment, trucks, loaders, dozers, and scrapers, that are contaminated with hazardous waste shall be decontaminated prior to being serviced or used in an area not used for hazardous waste. Contaminated wash water, waste solutions or residues generated from washing or decontaminating the equipment shall be collected and disposed of as hazardous wastes in compliance with these regulations.

(12) Salvaging of hazardous waste shall be permitted only as described in the operational plan, provided that salvaging does not create nuisances or hazards to public health or safety or the environment.

Section 7. Additional Standards for Storage of Hazardous Waste. (1) No person or state or federal agency shall

store a hazardous waste without written permission from the department.

(2) Any person who stores a hazardous waste longer than ninety (90) days shall have obtained a permit or temporary variance for storage from the department.

(3) The department may require that hazardous waste stored longer than ninety (90) days be removed and disposed of in a manner acceptable to the department.

(4) Hazardous waste in storage for less than ninety (90) days shall be removed and disposed of in a manner acceptable to the department if so ordered by the secretary pursuant to KRS 224.071.

(5) Storage of water-reactive or water-soluble hazardous wastes as identified by the department shall be in a rain-tight and waterproof area.

(6) Containers used for storing hazardous waste shall be such that containers can be transported, handled, or moved safely, and without spillage.

(7) Storage of hazardous waste shall be in a secure enclosure, including but not limited to, a building, room or fenced area, which shall prevent unauthorized persons from gaining access to the waste and in such a manner that will minimize the possibility of spills and escape from the area of storage. A caution sign shall be posted and shall be visible from any direction of access or view of hazardous waste stored in such enclosure. Wording of caution signs shall be: "Caution—Hazardous Waste Storage Area—Unauthorized Persons Keep Out."

(8) A label shall be maintained on all containers and storage tanks in which hazardous wastes are stored. Labels shall include the following information:

(a) Identification number;

(b) Composition and physical state of the waste;

(c) Special safety recommendations and precautions for handling the waste;

(d) Statements which call attention to the particular hazardous properties of the waste;

(e) Name and address of the person generating the waste; and

(f) Date of acceptance at the storage facility.

(9) Records shall be maintained on all containers and storage tanks during the term of storage. The records shall include the following information:

(a) An identification number which appears on the label;

(b) Composition and physical state of the waste;

(c) Amount of waste;

(d) Name and address of the person producing the waste; and

(e) Date of acceptance at the storage facility.

Section 8. Operation Requirements for Owner/Operator of a Disposal Site. (1) Extremely hazardous wastes, flammable wastes, water-reactive wastes and strong oxidizers shall not be applied directly to the working face of a landfill. Such wastes shall be deposited behind the working face in trenches or wells at landfill sites pursuant to the conditions of the hazardous waste permit.

(2) The department may require the owner/operator to remove from the disposal site and properly dispose of any hazardous waste if the disposal of the waste is not consistent with the requirements of this regulation and conditions specified by the department in the hazardous waste permit.

(3) Hazardous waste that has been deposited in a hazardous waste area shall not be excavated, removed or recovered without written approval of the department. All subsequent handling, treatment, storage, recycling, or disposal of such hazardous waste shall be in conformance with this regulation. A complete manifest shall accompany

the wastes if transported to an off-site hazardous waste facility, and applicable permits shall be required pursuant to 401 KAR 2:060.

(4) Burning wastes shall not be deposited within a hazardous waste disposal site.

(5) Forbidden or Class A explosive wastes as defined in Title 49, Code of Federal Regulations, Sections 173.51 and 173.53, or identified by the department, shall not be disposed on land. Such wastes shall be destroyed or used so as not to present a hazard to public health or the environment.

(6) The department may require that any extremely hazardous waste be treated before it is disposed.

(7) Any person or state or federal agency who generates, treats, stores, recycles or disposes of hazardous wastes shall not create a situation where incompatible wastes, as defined in 401 KAR 2:050, can come in contact with each other.

(8) Storage and transportation containers holding wastes which might be incompatible shall be separated from each other or protected from each other, in order to prevent the wastes from mixing should the containers break or leak prior to disposal according to the operating plant.

(9) The owner/operator of a hazardous waste facility shall not accept hazardous wastes from generators and transporters not in compliance with applicable state and federal laws and regulations.

Section 9. Records. (1) Hazardous waste facility owner/operators shall maintain at their facility, for a period of not less than three (3) years, the following information:

(a) The names, addresses, and telephone numbers of the waste generator, transporter, processor and disposal site owner/operator of each shipment of hazardous waste transported, received, or stored;

(b) The source, identity, chemical composition, volume, physical state, container type and hazardous properties of each shipment of waste received, transported, or stored at the site;

(c) The method used to process or dispose of each waste; and

(d) The date that each hazardous waste was received for storage or disposal.

(2) Copies of completed manifests may serve the purpose in subsection (1)(a) through (d).

(3) The owner/operator of a hazardous waste disposal facility shall record on a grid or other suitable map the general disposal locations of hazardous wastes. The hazardous waste types shall be identified on the grid or map by types of waste, including but not limited to, acid solution, alkaline solution, pesticides, paint sludge, solvent, tetraethyl lead sludge, tank bottom sediment, contaminated oil and sand and plating waste. The record shall be permanently maintained.

(4) The owner/operator of a hazardous waste disposal facility shall maintain such other permanent summary and special records as required by the department.

Section 10. Weekly Reports by Owner/Operator of Hazardous Waste Disposal Facility. The owner/operator of a hazardous waste disposal facility shall submit a report to the department by the last day of each week, or on such schedule as approved by the department, showing the identity, source, chemical composition, weight or volume, physical state, container type, hazardous properties and method used to dispose of each waste.

Section 11. Accident Reports. Owner/operators of hazardous waste facilities shall report to the department any incident or accident within two (2) hours of the time of occurrence, which results in or could result in the discharge of hazardous waste. The department may require that a written report of the incident or accident be provided within ten (10) days.

JACKIE SWIGART, Secretary

ADOPTED: February 14, 1980

RECEIVED BY LRC: February 15, 1980 at 11:30 a.m.

PUBLIC HEARING: A public hearing on this regulation is scheduled for Monday, April 7, 1980, at 10 a.m., EST, in the Auditorium of the Capital Plaza Tower, Frankfort, Kentucky. For additional information or submission of comments, please contact Roger Blair, Director, Division of Hazardous Material and Waste Management, Pine Hill Plaza, Frankfort, Kentucky 40601.

**DEPARTMENT FOR NATURAL RESOURCES
AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Hazardous Material and Waste Management**

401 KAR 2:075. Identification and listing of hazardous waste.

RELATES TO: KRS 224.890

PURSUANT TO: KRS 13.082, 224.017, 224.890

NECESSITY AND FUNCTION: KRS 224.890(2) requires the Department for Natural Resources and Environmental Protection to identify the characteristics of and list hazardous wastes.

Section 1. Hazardous Waste Identification. The potential for any waste to be identified as having a hazardous property shall be determined by:

(1) Toxicity testing, using a recognized toxicant extraction procedure such as shown in the "Hazardous Waste Guidelines," to test a representative sample of waste and comparison of the test results with established toxicity parameters as shown in the "Hazardous Waste Guidelines."

(2) Ignitability testing, using a flash point test apparatus and a recognized procedure such as shown in the "Hazardous Waste Guidelines" to test a representative sample of any liquid waste for a flash point of less than 140 degrees Fahrenheit; any waste compressed gas or waste other than liquid, which is considered ignitable either by listing in recognized reference publications or by other tests; or any waste that will oxidize strongly as determined by recognized criteria, such as shown in the "Hazardous Waste Guidelines."

(3) Corrosiveness testing, using a recognized test for pH such as shown in the "Hazardous Waste Guidelines" to test a representative sample of any aqueous waste for a pH of less than three (3) or greater than twelve (12); and, by using a standard testing procedure such as shown in the "Hazardous Waste Guidelines" to test a representative sample of any waste for a corrosion rate greater than 0.250 inches per year of steel (SAE 1020) at a temperature of 130 degrees Fahrenheit.

(4) Radioactivity testing, using an apparatus and recognized procedure as shown in the "Hazardous Waste Guidelines" to test any waste not subject to the Federal

Atomic Energy Act of 1954, for any radioactivity above the specified levels contained in 902 KAR 100:080 and 902 KAR 100:085.

(5) Irritation and sensitivity ratings, as published in "Dangerous Properties of Industrial Materials," by N. Irving Sax, Fourth Edition, filed herein by reference, or other recognized references, as listed in the "Hazardous Waste Guidelines."

(6) Pressure generation, incompatibility, or reactivity determination or testing of a representative sample of the waste using published references, lists, or recognized tests such as shown in the "Hazardous Waste Guidelines."

(7) Extreme hazard determination or testing, using published references, lists, or recognized tests such as shown in the "Hazardous Waste Guidelines" from which an oral LD₅₀ is found.

Section 2. Hazardous Waste Lists. A waste that consists of or contains a material cited in the list of chemical names, the list of common names, or is generated by a process or source cited in the list of sources issued by the department in "Hazardous Waste Guidelines," list of hazardous wastes, waste sources, and processes, shall be considered a hazardous waste, and shall be handled and disposed of according to the requirements set forth in the hazardous waste regulations, unless it is shown to the satisfaction of the department that the waste does not meet the definition of hazardous waste presented in 401 KAR 2:050.

Section 3. Hazardous Waste by Definition. A waste that meets the definition of hazardous waste presented in 401 KAR 2:050 shall be considered a hazardous waste whether or not the waste is cited in this regulation or in "Hazardous Waste Guidelines." Such waste shall be handled and disposed of according to the requirements of the hazardous waste regulations.

JACKIE SWIGART, Secretary

ADOPTED: February 14, 1980

RECEIVED BY LRC: February 15, 1980 at 11:30 a.m.

PUBLIC HEARING: A public hearing on this regulation is scheduled for Monday, April 7, 1980, at 10 a.m., EST, in the Auditorium of the Capital Plaza Tower, Frankfort, Kentucky. For additional information or submission of comments, please contact Roger Blair, Director, Division of Hazardous Material and Waste Management, Pine Hill Plaza, Frankfort, Kentucky 40601.

**DEPARTMENT FOR NATURAL RESOURCES
AND ENVIRONMENTAL PROTECTION**

Bureau of Environmental Protection

Division of Hazardous Material and Waste Management

401 KAR 2:080. Fees.

RELATES TO: KRS 224.033, 224.890

PURSUANT TO: KRS 13.082, 224.017, 224.033, 224.890

NECESSITY AND FUNCTION: KRS 224.033(20) provides that the Department for Natural Resources and Environmental Protection may establish, by regulation, a schedule of fees for the cost of processing applications for permits and exemptions or partial exemptions. KRS

224.890 and the hazardous waste regulations require permits for the generation, treatment, storage, recycling, and disposal of hazardous waste.

Section 1. Fee for Annual Registration and Registration Renewal. The fee for annual registration and registration renewal for the generation of hazardous waste shall be calculated by the formula $Y = AX^{0.25}$. In the formula, Y equals the annual fee in dollars, X equals the annual tonnage generated, and A equals 125 for hazardous waste; 250 for moderately hazardous waste; and 500 for extremely hazardous waste. The maximum fee for hazardous waste generation shall be \$1,250; for moderately hazardous waste generation \$2,500; and for extremely hazardous waste generation \$5,000.

Section 2. Fees for Annual Permits and Permit Renewals. The fees for annual permits and permit renewals for the treatment, storage, recycling, and disposal of hazardous waste are as follows:

(1) For a disposal facility, the permit fee shall be \$5,000.

(2) For the treatment or incineration of hazardous waste, the permit fee shall be \$1,000.

(3) For the storage of hazardous waste, the permit fee shall be \$500.

(4) For the recycling of hazardous waste, the permit fee shall be \$250.

Section 3. Computation of Annual Tonnage. For the purpose of this regulation, the annual tonnage of hazardous waste generated by a person will be based on the amount of hazardous waste generated by that person during the previous year in the form shipped for disposal or storage including water or other non-hazardous substance co-disposed. If the person did not generate any hazardous waste in the previous year, then the initial tonnage will be estimated by the department based upon reports furnished to the department by the person. On-site recycling or treatment processes by a generator may be considered to be a part of the generation process at the discretion of the department and annual tonnage may be assessed on the quantity of hazardous residue from such on-site recycling or treatment.

Section 4. Permits Required. A separate hazardous waste permit is required for treatment, storage, recycling, or disposal of hazardous waste.

Section 5. Permit Modification Fee. If a permittee desires to increase, by an additional hazardous waste, the number of hazardous wastes he treats, stores, recycles, or disposes, the fee for the processing of such permit modification shall be \$100.

Section 6. Exemption from Fees. The fees required under Sections 1, 2 and 5 shall not apply to an existing or proposed publicly-owned facility.

JACKIE SWIGART, Secretary

ADOPTED: February 14, 1980

RECEIVED BY LRC: February 15, 1980 at 11:30 a.m.

PUBLIC HEARING: A public hearing on this regulation is scheduled for Monday, April 7, 1980, at 10 a.m., EST, in the Auditorium of the Capital Plaza Tower, Frankfort, Kentucky. For additional information or submission of comments, please contact Roger Blair, Director, Division of Hazardous Material and Waste Management, Pine Hill Plaza, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET
 Department for Elementary and Secondary Education
 Bureau of Administration and Finance

702 KAR 3:141. Repeal of 702 KAR 3:140.

RELATES TO: KRS 424.260, 45A.345 to 45A.460
 PURSUANT TO: KRS 13.082, 156.070, 156.160
 NECESSITY AND FUNCTION: KRS 45A.365 provides model procurement procedures for agencies of local government, including county and independent school districts. This Act does not contemplate or authorize regulation of local school districts by the State Board for Elementary and Secondary Education insofar as procurement practices are concerned.

Section 1. 702 KAR 3:140 is hereby repealed.

RAYMOND BARBER
 Superintendent of Public Instruction

ADOPTED: January 23, 1980
 RECEIVED BY LRC: February 4, 1980 at 3 p.m.
 SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary, Kentucky State Board for Elementary and Secondary Education, 17th Floor, Capital Plaza Office Tower, Frankfort, Kentucky 40601.

EDUCATION AND ARTS CABINET
 Department of Education
 Bureau of Instruction

704 KAR 3:304. Required program of studies.

RELATES TO: KRS 156.160
 PURSUANT TO: KRS 13.082, 156.070, 156.160
 NECESSITY AND FUNCTION: To establish minimum courses of study and the scope of instruction that may be offered in the different classes of common schools, and the minimum requirements of graduation from the courses offered.

Section 1. Pursuant to the authority vested in the State Board for Elementary and Secondary Education by KRS 156.070 and 156.160, the "Program of Studies for Kentucky Schools, Grades K-12," as adopted on January 10, 1979, is hereby filed with the Legislative Research Commission and incorporated by reference. Copies may be obtained from the Department of Education.

RAYMOND BARBER
 Superintendent of Public Instruction

ADOPTED: January 23, 1980
 RECEIVED BY LRC: February 4, 1980 at 3 p.m.
 SUBMIT COMMENT OR REQUEST FOR HEARING TO: Mr. Fred Schultz, Secretary, Kentucky State Board for Elementary and Secondary Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
 Department of Housing, Buildings and Construction

815 KAR 7:012. Departmental plan review fees.

RELATES TO: KRS Chapter 198B
 PURSUANT TO: KRS 198B.050(5), 198B.060(10)
 NECESSITY AND FUNCTION: KRS 198B.050(5) authorizes the Board of Housing, Buildings and Construction to issue regulations which are necessary to implement the Kentucky Building Code, and KRS 198B.060(10) authorizes the Department to create a schedule of fees to fully cover the cost of the services performed under the code. This regulation establishes the departmental fee for plan review under the Kentucky Building Code.

Section 1. Submission of Plans and Fees. (1) All plans and specifications required to be submitted to the department under the Kentucky Building Code shall be accompanied by the applicable fee as set forth in this regulation, rounded to the nearest dollar.

(2) All fees required herein shall be in check form payable to the Kentucky State Treasurer.

(3) No approval for construction shall be issued by the department until all required fees have been paid.

(4) The plan review fees required by this regulation are intended to cover the cost of compounding inspections for compliance with such plans.

Section 2. New Construction. (1) Departmental plan review fees for new buildings shall be calculated by multiplying .001 times the construction cost of each occupancy type as listed in the following table:

OCCUPANCY	PER SQUARE FOOT
Residential (excluding single family dwellings and duplexes).....	\$20
Assembly Occupancies	
Nightclub/restaurants.....	35
All other assembly.....	30
Educational.....	20
Day care centers.....	20
Business.....	20
Mercantile.....	20
Industrial factories.....	20
Warehouses.....	11
Institutional.....	25
Frozen food plants.....	20
High Hazard.....	30
All other non-residential.....	20

(2) Plan review fees for additions to existing buildings, which do not require the entire building to conform to the Kentucky Building Code, shall be calculated in accordance with subsection (1) by the measurement of the square footage of the addition, only.

(3) Plan review fees for existing buildings in which the use group or occupancy type is changed shall be calculated in accordance with subsection (1) by using the total square footage of the entire building or structure under the new occupancy type.

(4) Plan review fees for alterations and repairs not otherwise covered by this section shall be calculated by multiplying the contractor's cost for the repairs by .001.

Section 3. Specialized Fees. In addition to the fees required by Section 2, the following fees must be paid for the specialized plan reviews listed:

(1) Sprinkler fees:

AUTOMATIC SPRINKLER REVIEW FEE TABLE

Sprinkler Heads	Plan Review Fee
1—200	\$ 50
201—300	60
301—400	80
401—750	100
over 750	\$100 plus 10 cents per sprinkler over 750

(2) Fire detection system review fee: \$10 per 5,000 square feet up to 70,000 square feet; over 70,000 square feet—\$140 plus \$15 per each additional 20,000 square feet.

(3) Standpipe plan review fee: \$30 (Combination standpipe and riser plans will be reviewed under automatic sprinkler review fee schedule.)

(4) Carbon dioxide suppression system review fee: 1 to 175 pounds of agent—\$35; over 175 pounds of agent—\$35 plus 20 cents per pound in excess of 175 pounds.

(5) Halon 1301 suppression system review fee: Up to 35 pounds of agent—\$35; over 35 pounds—\$35 plus 50 cents per pound in excess of 35 pounds.

(6) Foam suppression system review fee: \$35 per 50 gallons of foam concentrate.

(7) Range hoods review fee: \$20 per hood.

(8) Tanks installation plan review fee: \$25 for the first tank and \$5 for each additional tank.

CARL F. SMOAK, Acting Commissioner

ADOPTED: January 24, 1980

APPROVED: H. FOSTER PETTIT, Secretary

RECEIVED BY LRC: February 12, 1980 at 3:45 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Judith G. Walden, Office of the Counsel, Department of Housing, Buildings and Construction, U.S. 127 Building, Frankfort, Kentucky 40601.

**DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance**

904 KAR 1:075. Hearings and appeals for mentally retarded.

RELATES TO: KRS 205.231, 205.237, 210.270

PURSUANT TO: KRS 13.082, 194.025, 194.050

NECESSITY AND FUNCTION: The Department for Human Resources has responsibility under 42 CFR 431.220, KRS 205.231 and 210.270 to provide for a system of hearings to be available to Title XIX recipients. KRS 210.270 specifies conditions for reclassification and/or transfer, and hearings related to issues of reclassification and/or transfer, of mentally retarded patients lodged in state institutions. This regulation is promulgated to satisfy the hearing requirement of KRS 205.231 and 210.270 relative to Title XIX eligible mentally retarded individuals lodged in state institutions who are proposed by the department to be reclassified and/or transferred. In accordance

with KRS 205.237, the department is also setting the maximum fees that may be charged the recipient for representation by attorneys with regard to such hearings or further resultant appeals.

Section 1. Definitions. (1) "Recipient," as used in this regulation, means a mentally retarded individual, lodged in a state institution, who is eligible for Title XIX benefits and is having the cost of his care paid for using funds from the Title XIX program.

(2) The phrase "at the time of any action affecting his claim," means at the time that the department proposes to reclassify the level of care of a recipient (as defined in subsection (1), above), and/or to transfer such recipient from the state institution in which he is lodged.

(3) "Authorized representative," means a parent, guardian or committee of the recipient; or an attorney acting at the request of the parent, guardian or committee of the recipient; or an attorney acting on behalf of the recipient; or a representative of the facility caring for the recipient who is acting on behalf of the recipient.

(4) The masculine "he," "his," "him," includes the feminine.

Section 2. Informing the Recipient of his Rights. Each recipient and his parent, guardian or committee shall be informed in writing at the time of any action affecting his claim of his right to a hearing, the method by which he may obtain a hearing and that he may be represented by an authorized representative, such as legal counsel, relative, friend or other spokesman, or he may represent himself. All notice requirements contained in 42 CFR 431.210 shall be met.

Section 3. Request for a Hearing. Any recipient, or an authorized representative acting on his behalf, may request a hearing by filing with either the local office or central office of the Bureau for Social Insurance a written or oral statement clearly indicating a desire for a hearing. If the request for a hearing is made orally, the oral request must be reduced to writing within ten (10) days by the person requesting the hearing, with the written request provided to the same office of the Bureau for Social Insurance which accepted the oral request.

Section 4. Time Limitation for Request. A written or oral request for a hearing must be received by the appeal panel within thirty (30) days of the date of receipt of the advance notice of adverse action.

Section 5. Continuation of Benefits. When the request for a hearing of a decision to reclassify or transfer any mentally retarded patient is received within the thirty (30) day period, provided for by KRS 210.270, Title XIX reimbursement will continue, and the recipient will not be transferred, until the conclusion of the hearing.

Section 6. Acknowledgement of Hearing Requests by the Appeal Panel. The acknowledgement letter shall contain information regarding the hearing process, including the right to case record review prior to the hearing and the right to representation. Subsequent notification shall include the time and place the hearing will be held.

Section 7. Withdrawal or Dismissal of Request. The recipient, or his authorized representative, may withdraw his request for a hearing at any time prior to release of the appeal panel's decision, provided, however, he (or his

authorized representative) is granted the opportunity to discuss withdrawal with his legal counsel or representative, if any, prior to finalizing the action. A hearing request shall be dismissed if the recipient fails without prior notification to report for the hearing, except that no hearing request shall be dismissed without extending to the recipient, or his authorized representative, the opportunity to establish that such failure was for good cause.

Section 8. Recipient's Rights Prior to a Hearing. All recipients and their parents, guardians or committees shall be informed of their right to legal counsel or other representation, of the right to case record review relating to the issue and of the right to submit additional information in support of the claim. When the hearing involves medical issues, a medical assessment by other than the person or persons involved in the original decision shall be obtained at bureau expense if the appeal panel considers it necessary. The medical assessment may be requested by the recipient or his authorized representative, or by an appeal panel member, and shall be considered necessary by the appeal panel if in the opinion of a majority of the members of the appeal panel the available medical information is insufficient for the appeal panel's purposes of determining whether the recipient should be reclassified and/or transferred. If a medical assessment at bureau expense is requested by the recipient and denied by the appeal panel the reason for denial shall be set forth in writing.

Section 9. Corrective Action. If after a review of the case record, but prior to scheduling a hearing, the chairman of the appeal panel determines that action taken or proposed to be taken, is incorrect, he shall authorize corrective action in the form of continuing assistance and/or eligibility. The hearing request shall then be dismissed, subject to reinstatement at the request of the recipient or his authorized representative if that individual feels the corrective action does not fully resolve the issues prompting the hearing request. Such request for reinstatement must be made within twenty (20) days of the notice of the corrective action.

Section 10. Conduct of a Hearing. Hearings and appeals relating to decisions to reclassify or transfer mentally retarded persons in state institutions shall be in accordance with the requirements contained in 42 CFR 431.200 through 42 CFR 431.250 and KRS 210.270.

(1) All hearing officers of the Hearing Branch, Division for Field Services, Bureau for Social Insurance are designated as the representatives of the Secretary, Department for Human Resources, to the appeal panel established in KRS 210.270.

(2) The hearing officers shall serve as the chairman of each appeal panel established in KRS 210.270, and as chairman will conduct the proceedings of the appeal panel and make any and all rulings on procedural matters at, before, or after the hearing.

(3) The chairman of the appeal panel is, pursuant to the authority of KRS 194.025, delegated the authority to administer oaths and affirmations, examine witnesses and parties who appear at the hearing, and issue subpoenas to compel the attendance of any witness or the production of books, papers, correspondence, memoranda and other records which he feels are necessary and relevant for determining the proper level of care of the patient and/or whether the patient should be transferred.

(4) The chairman of the appeal panel may, at his discretion, direct or grant a continuance of a hearing in order to secure necessary evidence.

(5) All members of the appeal panel are required to maintain the confidentiality of the hearings, records, reports and all other documents and safeguard all information relating to the patients and their parents, guardians and committees in accordance with KRS 194.060 and 205.175.

(6) The chairman of the appeal panel shall be responsible for maintaining the official records of a patient's case before the appeal panel, receiving a notice of appeal, acknowledging the appeal, taking and recording the vote of the appeal panel and notifying the parent, guardian or committee of the decision.

(7) Following the hearing the chairman of the appeal panel will take the vote of the appeal panel and assign to himself or any other member of the appeal panel the task of writing the decision.

(8) The decision of the appeal panel shall be in writing, include a finding of facts, identify laws and regulations which support the decision, be sent to the appealing party within ninety (90) days from the date of the request for the hearing, and advise the parent, guardian or committee of the right to appeal the decision in the manner prescribed by KRS 210.270.

(9) The recipient, his representative and any other party to the hearing may present such evidence as shall be pertinent to the issue on which the adverse action was, or is proposed to be, taken, and advance any arguments without undue interference.

(10) The chairman and other members of the appeal panel shall, if necessary to secure full information on the issue, examine each party who appears and his witnesses. The appeal panel may take any additional evidence which it deems necessary; but if additional evidence is taken, all interested parties shall be afforded the opportunity of examining or rebutting such additional evidence.

(11) The parties to the hearing, with the consent of the appeal panel, may stipulate the facts involved, in writing. The hearing may be decided on the basis of such stipulation or the appeal panel may schedule a hearing and take such additional evidence as is deemed necessary.

(12) All hearings shall be conducted informally and in such a manner as to determine the substantial rights of the parties. The parties and their witnesses shall testify under oath or affirmation. All facts relevant to the issue appealed shall be considered and passed upon.

Section 11. Hearings on Other Issues. Hearings on issues other than patient reclassification, or transfer, of mentally retarded persons in Title XIX reimbursement status in state institutions shall be conducted in accordance with the provisions of 904 KAR 2:055.

Section 12. Limitation of Fees. (1) The department, and its officers and employees, either in their official or personal capacity, are not liable for payment of any attorney's fee. In accordance with KRS 205.237, the fee an attorney may charge an individual may not exceed the following:

(a) Seventy-five dollars (\$75) for preparation and appearance at the hearing before an appeal panel.

(b) One hundred seventy-five dollars (\$175) for preparation and presentation, including pleadings and appearance in courts, of appeals to the Circuit Court;

(c) Three hundred dollars (\$300) for preparatory work and briefs and all other matters incident to appeals to the Court of Appeals.

(d) Three hundred dollars (\$300) for preparatory work and briefs and all other matters incident to appeals to the Supreme Court.

(2) The fee agreed to by the representative and his client within the above maximums shall be deemed to have the approval of the department.

(3) Enforcement of payment of such fee shall be a matter entirely between such counsel or agent and the recipient. Such fee shall not be deducted, either in whole or in

part, from benefit checks which may be due and payable to the recipient.

WILLIAM L. HUFFMAN, Commissioner

ADOPTED: January 31, 1980

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: February 1, 1980 at 2:45 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Secretary for Human Resources, DHR Building, 275
East Main Street, Frankfort, Kentucky 40621.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the February 6, 1980 Meeting

(Subject to subcommittee approval at its March 5, 1980 Meeting)

The Administrative Regulation Review Subcommittee held its regularly scheduled meeting on Wednesday, February 6, 1980, at 9 a.m., in Room 327 of the Capitol. The minutes of the January 2, 1980 meeting were approved. Present were:

Members: Representative William T. Brinkley, Senator William L. Quinlan and Representative Albert Robinson.

Guests: Irving Bell, Joyce Bell, Edward E. Crews, Dana C. Droz, Ked Fitzpatrick, Greg Lawther, Donald A. Flater, H. Doyle Mills and Andy Naff, Department for Human Resources; Don R. McCormick and Joe Bruna, Department of Fish and Wildlife Resources; Billie R. Downing, Deborah Hendricks and Eleanor M. Poignard, Department of Education; James F. Perkins, Chris Kring and Douglas R. Wheeler, Department of Agriculture; Gene Brandenburg, Bill Underwood and Kenneth M. Howard, Department for Natural Resources and Environmental Protection; Mim Clark, Kentucky Retirement Systems; Marie Allison, Office for Public Advocacy; Charles Muntz, Council of Administrators of Special Education; and Geri Weaver, Anderson County Schools.

LRC Staff: Mabel D. Robertson, Deborah Herd, Garnett Evins, Joe Hood, and Steve Armbrust.

Representative Brinkley called the meeting to order and introduced Senator William L. Quinlan, who replaced Senator Donald L. Johnson as a member of the subcommittee.

Representative Brinkley stated the floor was open for the nomination of a chairman for the subcommittee to serve until January 1982. On motion of Representative Robinson, seconded by Senator Quinlan, Representative Brinkley was re-elected chairman.

The following regulations were deferred until the March 5 meeting at the request of the issuing agencies:

KENTUCKY EMPLOYEES RETIREMENT SYSTEM

General Rules

105 KAR 1:010. Contribution and interest rates.

CRIME VICTIMS COMPENSATION BOARD

Claims and Awards

107 KAR 1:010. Financial hardship standards.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

Bureau of Surface Mining Reclamation and Enforcement

Strip Mining of Coal

405 KAR 1:260. Contemporaneous reclamation.

DEPARTMENT OF INSURANCE

Motor Vehicle Repairs

806 KAR 39:060. Sticker or emblems.

704 KAR 3:305. Requirements for high school graduation, was deferred until the March meeting on motion of Representative Robinson, seconded by Senator Quinlan, because the affirmative consideration had been received too late for proper review.

On motion of Representative Robinson, seconded by Senator Quinlan, the following regulations were approved and ordered filed:

DEPARTMENT OF FISH AND WILDLIFE RESOURCES

Hunting and Fishing

301 KAR 3:053. Spring gun and archery season for wild turkey.

DEPARTMENT OF AGRICULTURE

Pesticides

302 KAR 31:005. General provisions.

302 KAR 31:015. Certification.

302 KAR 31:025. Commercial structural pest control and fumigation.

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

Bureau of Environmental Protection Division of Sanitary Engineering

401 KAR 6:040. Water treatment plants; water distribution system; certification of operators.

Bureau of Surface Mining Reclamation and Enforcement

Strip Mining of Coal

405 KAR 1:051. Incremental bonding.

DEPARTMENT OF EDUCATION**Bureau for Exceptional Children****Exceptional and Handicapped Programs**

704 KAR 1:060. Identification, evaluation, and placement policy and procedures. (Manual amended after hearing and during meeting.)

DEPARTMENT FOR HUMAN RESOURCES**Bureau for Administrative Services****Controlled Substances**

901 KAR 1:041. Exempt prescription preparations.

Bureau for Health Services**Drug Formulary**

902 KAR 1:017. Amoxicillin trihydrate.

902 KAR 1:035. Chlorpheniramine maleate.

902 KAR 1:045. Doxycycline.

902 KAR 1:057. Potassium chloride.

902 KAR 1:141. Sulfisoxazole and phenazopyridine.

902 KAR 1:324. Hyoscyamine sulfates.

902 KAR 1:331. Dicloxacillin sodium.

902 KAR 1:332. Nystatin.

Certificate of Need and Licensure Board

902 KAR 20:115. Emergency care; ambulance services.

Radiology

902 KAR 100:012. Fee schedule.

Bureau for Social Insurance**Medical Assistance**

904 KAR 1:034. Early and periodic screening, diagnosis and treatment. (Amended after hearing.)

The meeting was adjourned at 11:45 a.m., to meet again on March 5, 1980, at 10 a.m. in Room C12, Capitol Annex Building.

Administrative Register ^{of} *kentucky*

Cumulative Supplement

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